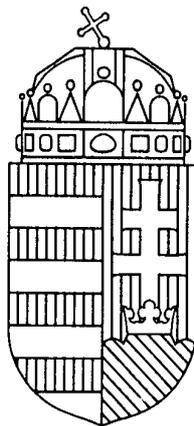


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**Hungarian Competition Authority**

# **THE COMPETITION ACT**



**Last amendment: 1 April 2010**

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**Parliament passed this Act on 25 June 1996. Subsequently, it was amended by**

- Act CXXXII of 1997 on Branches and Sales Agencies in Hungary of Undertakings Domiciled Abroad,
- Act LVIII of 1997 on Business Advertising Activity,
- Act LXXIX of 1997 on the Legal Status and Responsibility of the Members of the Government and of State Secretaries,
- Act XXVII of 1997 on the Amendment of Act II of 1991 on Bankruptcy Proceedings, Dissolution Proceedings and Final Settlements,
- Act LXXXIII of 2000 on the Amendment of Certain Statutes in Connection with Passing on Certain Responsibilities of the Chambers of Commerce,
- **Act CXXXVIII of 2000 on the Amendment of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices,**
- Act XXXVI of 2001 on the Amendment of Act XXIII of 1992 on the Legal Status of Civil Servants and of Other Acts,
- Act CII of 2001 on the Incompatibility Concerning, and the Obligation to Make Property Declarations upon, Persons Performing Responsibilities which Arise from the Exercise of State Executive Power or from Holding Office in Public Property Management,
- Act XVI of 2003 on the Regulation of the Market for Agricultural Products,
- Act XXIV of 2003 on the Amendment of Certain Statutes Related to the Utilization of Public Funds, the Publicity, the Improvement of Transparency and the Extension of Control, of the Utilization of Public Property,
- **Act XXXI of 2003 on the Amendment of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices,**
- Act CXL of 2004 on the General Rules of Public Administrative Procedures and Services,
- **Act LXVIII of 2005 on the Amendment of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices,**
- Act CIX of 2006 on the Amendment of Certain Statutes in Connection with Changes in the Branch of Government,
- Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers,
- **Act XIV of 2009 on the Amendment of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices,**
- Act LVI of 2009 on the Amendment of Certain Statutes in Connection With the Entering into Force of Act CXI of 2008 on the Amendment of Act CXL of 2004 on the General Rules of Public Administrative Procedures and Services, and the Implementation of Directive 2006/123/EC on Services in the Internal Market
- Act LXXXV of 2009 on the Regulation of Payment Services
- Act CXLIX of 2009 on the Amendment in connection with the Reform of the Criminal Registration System
- Act CIX of 2009 on the Amendment of Certain Acts Determining the 2010 Budget of the Republic of Hungary
- Act CLV of 2009 on the Protection of Qualified Data
  
- Act CLXIII of 2009 on the protection of fair proceeding and on the amendments in connection with it

(Consolidated version effective as of 1 October 2009, 1 November 2009, 1 January 2010, 1 April 2010)

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***(with side notes)***

***\* Consolidated version of the amendments***

## The structure of the Competition Act

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**Act LVII of 1996**  
**on the Prohibition of Unfair and Restrictive Market Practices<sup>1</sup>**

**preamble**

The public interest attached to the maintenance of competition on the market ensuring economic efficiency and social progress, the interests of undertakings complying with the requirements of business fairness and the interests of consumers require the state to protect by law fairness and freedom of economic competition. To this end it is necessary to adopt competition rules prohibiting market practices that are contrary to the requirements of fair competition or restrict economic competition and preventing concentrations of undertakings that are disadvantageous to competition, at the same time providing for the necessary institutional and procedural background. In order to attain these objectives - also taking into consideration the requirements of the approximation to the law of the European Community and the conventions of domestic competition law - Parliament passed the following Act.

**PART ONE**

**Chapter I**

**Scope of the Act**

Article 1

**scope of the Act**

(1)<sup>2</sup> This Act shall apply to market practices carried out on the territory of the Republic of Hungary by natural and legal persons and companies with no legal personality, including branches in Hungary of undertakings domiciled abroad with the exception for practices regulated in Chapter VI (hereinafter together: undertakings), except where otherwise regulated by statute. With the exception of practices regulated in Chapter II and III, this Act shall also apply to market practices of undertakings carried out abroad if they may have effects on the territory of the Republic of Hungary.

(2)<sup>3</sup> In any proceeding for the application of Articles 81 and 82 of the Treaty establishing the European Community (hereinafter: the EC Treaty) the procedural rules laid down in this Act shall also apply to market practices falling under those Articles where under Council Regulation (EC) No 1/2003 on the implementation of the competition rules laid down in Articles 81 and 82 of the Treaty (hereinafter: Regulation (EC) No 1/2003) the Hungarian Competition Authority or a Hungarian court may proceed.

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<sup>1</sup> This act was adopted by Parliament on 25 June 1996.

<sup>2</sup> Established by Act CXXXII of 1997; entering into force as of 1 January 1998.

<sup>3</sup> Established by Act XXXI of 2003; entering into force as of 1 May 2004.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

## Chapter II

### Prohibition of Unfair Competition

<b>general prohibition of unfair competition</b>	<p>Article 2<sup>4</sup></p> <p>It shall be prohibited to engage in unfair economic activities, particularly in a manner that infringes or jeopardises the legitimate interests of competitors, trading parties or consumers or is contrary to the requirements of business fairness.</p>
<b>consumer, trading party</b>	<p>Article 2/A<sup>5</sup></p> <p>(1) For the purposes of this Act consumers are customers, purchasers and users qualifying as consumers within the meaning of Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers (hereinafter: UCPA).</p> <p>(2) For the purposes of this Act the term “trading party” means any person, who or which does not qualify as a consumer.</p>
<b>disparagement of competitors</b>	<p>Article 3</p> <p>It shall be prohibited to injure or jeopardise the reputation or credibility of competitors by making or spreading false allegations, or by falsifying facts or by other practices.</p>
<b>business secrets</b>	<p>Article 4</p> <p>(1) It shall be prohibited to acquire or make use of business secrets in an unfair manner or disclose them in an unauthorised way to third parties or the public.</p> <p>(2) The manner of acquiring a business secret shall also be deemed unfair if access to it was obtained without the consent of the holder and with the assistance of a person who was, at the time of the acquisition of the business secret, or in a period prior to it, in a confidential relationship or business relationship with him.</p> <p>(3) For the purposes of this Act:</p> <ul style="list-style-type: none"> <li>a) the term „business secret” means the concept defined in Article 81(2) of the Civil Code;</li> <li>b) the term „confidential relationship” particularly includes employment, labour and membership related relations;</li> <li>c) the term „business relationship” means the provision of information, negotiations and the submission of offers anticipating the conclusion of a contract even if no contract ensues.</li> </ul>
<b>boycott appeals</b>	<p>Article 5</p> <p>It shall be prohibited to make unfair appeals to other persons with the intention to disrupt existing economic relationships with third parties or to prevent the creation of such relationships.</p>

<sup>4</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>5</sup> Established by Act XLVII of 2008; entering into force as of 1 September 2008.

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<b>imitation</b>	<p>Article 6<sup>6</sup></p> <p>It shall be prohibited to manufacture, distribute or advertise goods and services (hereinafter together: goods) without the consent of competitors if such goods have a characteristic presentation, packaging or labelling (including designation of origin), or to use a name, mark or designation, by which a competitor or its goods are usually recognised.</p>
<b>bidding</b>	<p>Article 7</p> <p>It shall be prohibited to infringe in any manner the fairness of any bidding process - in particular in respect of competitive tenders - and that of auctions or stock exchange deals. This prohibition applies only to practices not regulated by any other provision of this Act or by other statutes.</p>

### Chapter III

#### Prohibition of Unfair Manipulation of Business Decisions<sup>7</sup>

<b>misleading of trading parties</b>	<p>Article 8<sup>8</sup></p> <p>(1) It shall be prohibited to deceive trading parties in economic competition.</p> <p>(2) Deception of trading parties shall be presumed, in particular, if</p> <ul style="list-style-type: none"> <li>a) false declarations are made or facts are declared in a manner which is likely to deceive with respect to prices or essential features of the goods, including, in particular, the composition, use, effects on health or the environment, as well as their handling, origin or place of origin, source or method of the procurement; if the designation of goods is likely to deceive, or if any other information which is likely to deceive pertaining to the essential features of the goods is disseminated;</li> <li>b) it is concealed that the goods fail to meet legal or other usual requirements for such goods, or that the use of the goods requires conditions which are significantly different from what is customary;</li> <li>c) information that is deceptive or may possibly be deceptive is given about factors related to the sale and distribution of the goods influencing the decision of trading parties, in particular, about the method of distribution, terms of payment, gifts associated with the goods, discounts, or the chance of winning;</li> <li>d) a false impression of especially advantageous purchase is created.</li> </ul>
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<b>misleading advertising</b>	<p>Article 8/A<sup>9</sup></p> <p>The scope of this Chapter shall not cover practices, which qualify as misleading advertising under the provisions of Act XLVIII of 2008 on Essential Conditions of and Certain Limitations to Business Advertising Activity.</p>
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<b>Article 9<sup>10</sup></b>	<p>The meaning of terms customarily accepted in business shall be taken as a guide when establishing whether the information is capable of misleading.</p>
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<sup>6</sup> Established by Act LVIII of 1997; entering into force as of 1 September 1997.

<sup>7</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>8</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>9</sup> Established by Act XLVII of 2008; entering into force as of 1 September 2008.

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Article 10<sup>11</sup>

**restricting the  
freedom of choice of  
trading parties**

It shall be prohibited to apply business methods that restrict, without justification, the freedom of choice of trading parties. The creation of conditions, under which the objective appraisal of goods or offers or the objective comparison between them and other goods or offers is considerably more difficult, shall be deemed, in particular, to be such a method.

## Chapter IV

### Prohibition of Agreements Restricting Economic Competition

## Article 11

**restrictive  
agreements**

(1) <sup>12</sup>Agreements or concerted practices between undertakings and decisions by social organisations of undertakings, public corporations, associations or other similar organisations (hereinafter together: agreements), which have as their object or potential or actual effect the prevention, restriction or distortion of competition, shall be prohibited. Agreements concluded between undertakings, which are not independent of each other do not qualify as such kind of agreements.

(2) This prohibition applies, in particular, to

a) the direct or indirect fixing of purchase or selling prices or other business terms and conditions;

b) the limitation or control of production, distribution, technical development or investment;

c) <sup>13</sup> the allocation of sources of supply, or the restriction of their choice as well as the exclusion of a specified group of consumers or trading parties from purchasing certain goods;

d) the allocation of markets, exclusion from sales, or restriction of the choice of marketing possibilities;

e) <sup>14</sup>

f) the hindering of market entry;

g) cases, where, given transactions of the same value or character, there is discrimination between trading parties, including the application of prices, periods of payment, discriminatory selling or purchase terms and conditions or methods placing certain trading parties at a competitive disadvantage;

h) making the conclusion of contracts subject to the acceptance of obligations, which, by their nature or according to commercial usage do not belong to the subject of such contracts.

(3) Legal consequences attached by this Act to the infringement of Section (1) of this Article shall be applied together with those attached by the Civil Code to contracts infringing the law.

<sup>10</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>11</sup> Amended by Act Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>12</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>13</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>14</sup> Repealed by Act LXVIII of 2005; no longer in force as of 1 November 2005.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

Article 12<sup>15</sup>

## Article 13

(1)<sup>16</sup> Agreements, which are of minor importance, shall not be prohibited.

(2)<sup>17</sup> An agreement shall be deemed to be of minor importance if the joint share of the participating undertakings and undertakings which are not independent of them does not exceed ten per cent on the relevant market unless its object is

a) to fix, directly or indirectly, purchase or selling prices between competitors, or

b) to share markets between competitors.

**agreements of minor importance**

(3)<sup>18</sup> The market share must not exceed ten per cent for as long as the agreement is in force, or should it be in force for more than one year, in the particular calendar year.

(4)<sup>19</sup> Notwithstanding the provisions set out in Sections (1) to (3), agreements shall be caught by the prohibition where competition is significantly prevented, restricted or distorted by the cumulative effect of those agreements and similar other agreements on the relevant market. The Hungarian Competition Authority may establish during the course of its proceedings that such an agreement falls under the prohibition. In such cases no fines may be imposed.

## Article 14

(1) The relevant market shall be defined by taking into account the goods that are subject to the agreement and the geographical area concerned.

(2)<sup>20</sup> In addition to the goods, which are subject to the agreement any goods that can reasonably be substituted for them, in view of their intended use, price and quality and the terms and conditions of the fulfilment (demand-side substitutability) and the aspects of supply-side substitutability shall be taken into account.

**relevant market**

(3) The term „geographical area” means the territory outside which:

a)<sup>21</sup> consumers or trading parties are unable to purchase goods or are able to purchase them only under considerably less favourable conditions; or

b) the seller of goods is unable to sell goods or is able to sell them only under considerably less favourable conditions.

Article 15<sup>22</sup>

**undertakings not independent of each other**

(1) Undertakings shall be deemed not to be independent of each other, where they belong to the same group of undertakings or they are controlled by the same undertakings.

<sup>15</sup> Repealed by Act CXXXVIII of 2000; no longer in force as of 1 February 2001.

<sup>16</sup> Established by CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>17</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>18</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>19</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>20</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>21</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>22</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

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**The Competition Act (Act LVII of 1996)**

<b>group of undertakings</b>	<p>(2) An undertaking belongs to the same group as do undertakings which</p> <ul style="list-style-type: none"> <li>a) are under the sole control, as referred to in Section (2) or (3) of Article 23, of it,</li> <li>b) have control, as referred to in point a), of it,</li> <li>c) are under the control, as referred to in point a) above, of the undertakings referred to in point b),</li> <li>d) are under the joint control of two or more of the undertakings referred to in points a)-c) and it.</li> </ul>
<b>public undertakings</b>	<p>(3) The undertakings referred to in Article 25 and those in majority state or municipality ownership and with autonomous decision-making powers in determining their market conduct (Article 27(3)) shall be deemed to be independent of each other.</p>
<b>block exemption</b>	<p>Article 16</p> <p>Certain categories of agreements may be exempted from the prohibition of Article 11 by Government regulations. The Government may adopt regulations about the group exemption of agreements taking into account the provisions of Article 17 of this Act.</p>
<b>cumulative effects</b>	<p>Article 16/A<sup>23</sup></p> <p>(1) The group exemption from the prohibition on the restriction of competition does not apply to agreements where, by the cumulative effect of those agreements and similar other agreements on the relevant market, the requirements provided by Article 17 are not satisfied.</p>
<b>withdrawal of the benefit of block exemption</b>	<p>(2) The Hungarian Competition Authority may establish in the course of its proceedings that, with regard to the provision of Section (1) above, the benefit of the application of the group exemption shall not apply to such an agreement for the future. In such cases no fines may be imposed.</p>
<b>exception</b>	<p>Article 17<sup>24</sup></p> <p>Agreements caught by Article 11 shall not be prohibited, provided that</p> <ul style="list-style-type: none"> <li>a) they contribute to a more reasonable organisation of production or distribution, the promotion of technical or economic progress, or the improvement of competitiveness or of the protection of the environment;</li> <li>b)<sup>25</sup> they allow consumers or trading parties a fair share of the resulting benefit;</li> <li>c) the concomitant restriction or exclusion of competition does not exceed the extent necessary to attain economically justified common goals;</li> <li>d) they do not create the possibility of excluding competition in respect of a substantial part of the products concerned.</li> </ul> <p>Article 18<sup>26</sup></p> <p>Article 19<sup>27</sup></p>

<sup>23</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>24</sup> Amended by Act LXVIII of 2005; entering into force as of 14 July 2005.

<sup>25</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>26</sup> Repealed by Act LXVIII of 2005; no longer in force as of 14 July 2005.

<sup>27</sup> Repealed by Act LXVIII of 2005; no longer in force as of 14 July 2005.

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<b>burden of proof</b>	Article 20 <sup>28</sup> The burden of proving that an agreement is exempted pursuant to Article 16 or Article 17 from the prohibition shall rest on the person claiming the benefit of exemption.
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**Chapter V**  
**Prohibition of Abuse of a Dominant Position**

<b>abuse of a dominant position</b>	<p>Article 21</p> <p>It shall be prohibited to abuse a dominant position, particularly:</p> <ul style="list-style-type: none"> <li>a) in business relations, including the application of standard contractual terms, to set unfair purchase or selling prices or to stipulate in any other manner unjustified advantages or to force the other party to accept disadvantageous conditions;</li> <li>b)<sup>29</sup> to limit production, distribution or technical development to the prejudice of consumers or trading parties;</li> <li>c) to refuse, without justification, to create or maintain business relations appropriate for the type of transaction;</li> <li>d) to influence the economic decisions of the other party in order to gain unjustified advantages;</li> <li>e) to withdraw, without justification, goods from circulation or withhold them from trade prior to a price increase or with the purpose of causing a price increase or in any other manner which may possibly produce unjustified advantages or to cause competitive disadvantages;</li> <li>f) to make the supply or acceptance of goods subject to the supply or acceptance of other goods, furthermore to make the conclusion of contracts subject to the acceptance of obligations which, by their nature or according to commercial usage, do not belong to the subject of such contracts;</li> <li>g) in the case of transactions which are equivalent in terms of their value or character to discriminate, without justification, against trading parties including in relation to the application of prices, periods of payment, discriminatory selling or purchase terms and conditions or methods thereby placing certain trading parties at a competitive disadvantage;</li> <li>h) to set extremely low prices which are not based on greater efficiency in comparison with that of competitors and which are likely to drive out competitors from the relevant market or to hinder their market entry;</li> <li>i) to hinder, without justification, market entry in any other manner; or</li> <li>j) to create, without justification, disadvantageous market conditions for competitors, or to influence their economic decisions in order to obtain unjustified advantages.</li> </ul>
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<sup>28</sup> Amended by Act LXVIII of 2005; entering into force as of 14 July 2005.

<sup>29</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008.

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## Article 22

(1)<sup>30</sup> A dominant position shall be deemed to be held on the relevant market (Article 14) by persons who are able to pursue their economic activities to a large extent independently of other market participants substantially without the need to take into account the market reactions of their suppliers, competitors, customers and other trading parties when deciding their market conduct.

(2)<sup>31</sup> In assessing whether a dominant position exists, the following factors shall be considered, in particular:

**dominant position**

a) the costs and risks of entry to and exit from the relevant market, and the technical, economic and legal conditions that have to be met;

b)<sup>32</sup> the property status, financial strength and profitability of the undertaking or the group of undertakings (Article 15(2)), and the trends in their development;

c)<sup>33</sup> the structure of the relevant market, the comparative market shares, the conduct of market participants and the economic influence of the undertaking or the group of undertakings on the development of the market.

**joint dominance**

(3)<sup>34</sup> Dominant positions may be held by individual undertakings or group of undertakings or jointly by more than one undertaking or more than one group of undertakings.

## Chapter VI Control of Concentration of Undertakings

## Article 23

(1) A concentration of undertakings is effected, where

**concentration**

a) two or more previously independent undertakings merge or one of them purchases the other (takeover) or a part of an undertaking becomes part of another undertaking which is independent of the first one; or

b)<sup>35</sup> a sole undertaking or more than one undertaking jointly acquire direct or indirect control of the whole or parts of one or more than one other undertaking which have been independent of them; or

c)<sup>36</sup> more than one undertaking, which are independent of each other, jointly create an undertaking controlled by them, which is able to perform on a lasting basis all the functions of an independent undertaking.

<sup>30</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>31</sup> Its number was amended by Act CXXXVIII of 2000, entering into force as of 1 February 2001.

<sup>32</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>33</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>34</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>35</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>36</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

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- (2) For the purposes of this Act, direct control is exercised by a sole undertaking, or more than one undertaking jointly, which
- direct control**
- a)<sup>37</sup> have the ownership of the interests or shares of another undertaking entitling them to exercise majority voting rights, or are holders of more than fifty per cent of the voting rights; or
  - b)<sup>38</sup> are entitled to appoint, elect or recall the majority of the executive officials of another undertaking; or
  - c)<sup>39</sup> are entitled by contracts to exercise decisive influence on the decisions of another undertaking; or
  - d)<sup>40</sup> acquire the ability on a factual basis to exercise decisive influence on the decisions of another undertaking.
- (3)<sup>41</sup> For the purposes of this Act, indirect control is exercised by one undertaking over another undertaking which is controlled, solely or together with it, by a third undertaking under its control or is jointly controlled by third undertakings under its control.
- indirect control**
- (4)<sup>42</sup> For the purposes of this Act, activities of an office-holder relating to winding up and dissolution of undertakings do not qualify as the exercise of control.
- bankruptcy**
- (5)<sup>43</sup> The term “part of an undertaking” is to be understood as assets or rights, including the clientele of an undertaking, the acquisition of which, solely or together with assets and rights which are at the disposal of the acquiring undertaking, is sufficient for enabling market activities to be pursued.
- part of an undertaking**

#### Article 24<sup>44</sup>

- (1) For a concentration of undertakings, the authorisation of the Hungarian Competition Authority shall be sought in cases where the aggregate net turnover of all the groups of undertakings concerned (Article 26(5)) and the undertakings jointly controlled by undertakings that are members of the groups of undertakings concerned and by other undertakings exceeded HUF fifteen billion in the preceding business year, and the net turnover of each of at least two of the groups of undertakings concerned in the preceding business year combined with the net turnover of the undertakings jointly controlled by undertakings members of the respective group of undertakings and other undertakings was more than HUF five hundred million.
- application thresholds**
- (2) In assessing whether the HUF five-hundred-million threshold is met, concentrations not subject to authorisation which took place within a two-year period preceding the concentration concerned between the group of undertakings acquiring control and undertakings of the group of undertakings, the controlling powers of which relinquish as a conclusion of the concentration, shall also be taken into account.

<sup>37</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>38</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>39</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>40</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>41</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>42</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>43</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>44</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(3) For insurance undertakings, the value of gross premiums shall be taken into account in place of net turnover. For investment service providers and funds, the incomes from those services and the contributions, respectively, shall be taken into account. For credit institutions and financial undertakings, the sum of the following income items shall be taken into account in place of net turnover:

- a) interest income and similar income,
- b) income from securities:
  - ba) income from shares and other variable yield securities,
  - bb) income from participating interests,
  - bc) income from shares in affiliated undertakings,
- c) commission receivable,
- d) net profit on financial operations,
- e) income from other business activities.

#### Article 25<sup>45</sup>

#### acquisitions not qualifying as concentrations

Temporary acquisitions of control or ownership for a one-year period at the longest by insurance undertakings, credit institutions, financial holding companies, investment companies or property managing organisations for the purposes of preparing a resale do not qualify as concentrations provided that they do not exercise their controlling rights, or exercise them only to an extent which is indispensable to the attainment of these objectives. The Hungarian Competition Authority on request where such undertakings can show that it was not possible to carry out the disposal within one year may extend that period.

#### Article 26

#### direct and indirect participants

- (1) Undertakings concerned are undertakings participating directly and indirectly in concentrations.
- (2) Direct participants are the undertakings with the participation of which the concentration is effected.
- (3)<sup>46</sup> Indirect participants are the other members of the group of undertakings (Article 15(2)) to which a direct participant belongs.
- (4) Undertakings, which relinquish their controlling powers as a conclusion of the concentration shall be left out of account when identifying the group of the indirect participants.
- (5)<sup>47</sup> Groups of undertakings concerned are groups of undertakings which consists of a direct participant pursuant to Section (2) and the indirect participants connected to it pursuant to Sections (3) and (4).

#### Article 27

- (1)<sup>48</sup> When applying Article 24(1), in calculating net turnover, the turnover of the undertakings concerned (Article 26) or parts of them shall be reduced by the sales between themselves.

<sup>45</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>46</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>47</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>48</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**calculation of turnover**

(2) In calculating the net turnover of undertakings of foreign nationality, the net turnover realised from sales in the preceding business year in the territory of the Republic of Hungary shall be taken into account.

(3) In calculating the net turnover of undertakings concerned of majority state or municipality ownership, economic units with autonomous decision-making powers in determining their market conduct shall be taken into account.

(4)<sup>49</sup> For parts of undertakings, the net turnover realised in the preceding year by the use of the assets and rights by the undertaking, which sold them, shall be taken into account.

(5)<sup>50</sup> The net turnover of undertakings jointly controlled by two or more undertakings shall be apportioned equally to each undertaking having control of them. For the purposes of such apportioning, controlling undertakings, which belong to the same group of undertakings shall be deemed to be one single undertaking.

## Article 28

**application for authorisation**

(1)<sup>51</sup> In cases of mergers and takeovers it is the obligation of the direct participant, in all other cases it is the obligation of the acquirer of a part of the undertaking or the acquirer of direct control to seek, in accordance with Article 24, an authorisation of the concentration.

(2)<sup>52</sup> An application for authorisation shall be submitted within thirty days of the date of the publication of the invitation to tender, the conclusion of the contract or the acquisition of the controlling rights, whichever of them is the earliest.

(3)<sup>53</sup> In cases of concentrations of credit institutions or insurance undertakings, the application for authorisation shall be submitted to the Hungarian Competition Authority on the same date as the application for permission to be submitted to the branch supervisory authority as provided under separate legislation.

## Article 29

**validity of the contract**

For a contract resulting in the concentration of undertakings pursuant to Article 24 to come into existence, the authorisation of the Hungarian Competition Authority shall be required.

<sup>49</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>50</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>51</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>52</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>53</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

## Article 30

(1) When assessing an application for authorisation of a concentration, both concomitant advantages and disadvantages shall be considered. In the course of this consideration, the following aspects shall be examined, in particular:

**balancing  
advantages against  
disadvantages**

a) the structure of the relevant markets, existing or potential competition on the relevant markets, procurement and marketing possibilities, the costs, risks and technical, economic and legal conditions of market entry and exit, the prospective effects of the concentration on competition on the relevant markets;

b) the market position and strategy, economic and financial capacity, business conduct, internal and external competitiveness of the undertakings concerned and likely changes in them;

c)<sup>54</sup> the effect of the concentration on suppliers, trading parties and consumers.

**authorisation**

(2)<sup>55</sup> The Hungarian Competition Authority may not refuse to grant authorisation for a concentration where, with a view to the provisions of Section (1), the concentration would not significantly reduce competition on the relevant market (Article 14), in particular as a result of the creation or strengthening of a dominant position. To the extent that the creation of a joint venture pursuant to point c) of Article 23(1) has as its object or effect the coordination of the market conduct of the creating groups of undertakings, such coordination shall be assessed in accordance with the criteria of Article 17.

**authorisation with  
conditions and  
obligations**

(3)<sup>56</sup> In order to reduce the detrimental effects of a concentration, the Hungarian Competition Authority may attach to its decision pre- or post-conditions and obligations. It may, in particular, demand by its decision the divestiture of certain parts of the undertakings or certain assets or the relinquishment of control over an indirect participant, setting an appropriate time limit for the carrying out of these requirements.

(4)<sup>57</sup> A preconditioned authorisation shall take effect from the date of the fulfilment of the conditions. A post-conditioned authorisation shall take effect from the date of it being granted. It shall cease to have effect should any of the conditions not be satisfied.

**ancillary restraints**

(5)<sup>58</sup> The authorisation, which has been granted for a concentration shall also cover restrictions necessary to the implementation of the concentration.

Article 31<sup>59</sup>

**failure to apply for  
authorisation**

If it is established in the course of the competition supervision proceeding that a concentration which is subject to authorisation pursuant to Article 24, has been carried out without obtaining such an authorisation and may not have been capable of being authorised, the Hungarian Competition Authority may require by its decision, setting an appropriate time limit, the separation or divestiture of the merged undertakings or assets or interests or the relinquishment of joint control or it may attach other obligations to its decision in order to restore effective competition.

<sup>54</sup> Amended by Act XLVII of 2008; entering into force as of 1 November 2008. It shall be applied in proceedings initiated henceforward.

<sup>55</sup> Amended by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in proceedings initiated henceforward.

<sup>56</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>57</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>58</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>59</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

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Article 32

(1)<sup>60</sup> The Hungarian Competition Authority shall withdraw its decision made pursuant to Article 30 where:

**withdrawal or  
amendment of the  
authorisation  
decision**

a) the grant of the authorisation by the decision, which has not yet been reviewed by the court, has been based on misleading information concerning a fact which was fundamental to the making of the decision; or

b) the undertaking subject to the decision is in breach of any obligation attached to the decision.

(2)<sup>61</sup> The Hungarian Competition Authority may amend its decision made pursuant to Article 30 where the obliged undertaking is in breach of any obligation, or unable to satisfy any of the conditions, attached to the decision but where the obliged undertaking has not been found negligent.

(3)<sup>62</sup> In cases to which point (a) of Section (1) applies, the decision may be withdrawn within five years of the conveyance of the decision.

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<sup>60</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>61</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>62</sup> Established by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated henceforward.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

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**PART TWO**

**Chapter VII**

**The Hungarian Competition Authority**

Article 33

**Hungarian  
Competition  
Authority**

(1)<sup>63</sup> The Hungarian Competition Authority is a public, budgetary institution which constitutes a separate chapter in the central budget, the sums of total expenditure and total income of which may be reduced only by Parliament.

(2) Except where this Act provides otherwise, the responsibilities concerning the supervision of competition defined in this Act and in the Act on Price Setting are performed by the Hungarian Competition Authority. All the duties of the Hungarian Competition Authority must be prescribed by law.

(3)<sup>64</sup> The duties assigned to the competition authority of a member state by the competition rules of the European Community are carried out by the Hungarian Competition Authority.

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<sup>63</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>64</sup> Established by Act XXXI of 2003; entering into force as of 1 May 2004.

## Article 34

Except where otherwise provided by this Act, all civil servants employed by the Hungarian Competition Authority are subject to the provisions of Act XXIII of 1992 on the Legal Status of Civil Servants.

Article 34/A<sup>65</sup>

(1) No person shall be appointed as the President or Vice President of the Hungarian Competition Authority or as member of the Competition Council who

a) has a criminal record.

b) has no criminal record, however his or her criminal liability has been established by the court in its final judgement for violation of state secrets and service secrets under Chapter XV Title III, for false accusation, misleading of authority, giving false evidence, calling to give false evidence, non-disclosure of exculpatory circumstances, abetting, for crimes against the purity of public life under Title VII, for crimes against the purity of international affairs, participation in criminal organizations under Title VIII, for crimes against the purity of public life under Chapter XVI Title III, for economic crimes under Chapter XVII, for crimes against property or for crimes committed under Chapter XVIII of Act IV of 1978 on the Criminal Code

ba) in case of enforceable imprisonment of five years or longer imposed for premeditated crimes, for twelve years calculated as from the date of his or her exoneration from aggravating circumstances upon prior conviction (hereinafter criminal exoneration).

bb) in case of enforceable imprisonment of less than five years imposed for premeditated crimes, for ten years calculated from the date of his or her criminal exoneration.

bc) in case of community service work or fines imposed for premeditated crimes, for five years calculated from the date of his or her criminal exoneration.

bd) in case of suspended imprisonment imposed for premeditated crimes, for eight years calculated from the date of his or her criminal exoneration.

be) in case of suspended fines imposed for premeditated crimes, for three years calculated from the date of his or her criminal exoneration.

## Article 35

(1) The Hungarian Competition Authority is headed by the President.

(2)<sup>66</sup> The President of the Hungarian Competition Authority is nominated by the Prime Minister and appointed by the President of the Republic. The two Vice Presidents of the Hungarian Competition Authority are nominated by the President of the Hungarian Competition Authority to the Prime Minister who, in agreement with the nomination, submits the nomination to the President of the Republic. The Vice Presidents are appointed by the President of the Republic, who, at the same time, charges one of the two Vice Presidents with the responsibilities of the Chair of the Competition Council. The appointments of the President and the Vice Presidents are for a period of six years. After the expiry of the six-year period the appointed persons may be reappointed. The Chair of the Competition Council may be reappointed once only.

<sup>65</sup> Established by Act CXLIX of 2009; entering into force as of 1 January 2010.

(3) Prior to nomination by the Prime Minister, the candidates, at the initiative of the Prime Minister, will attend a public hearing by the competent committee of Parliament.

(4) The mandate of the President and the Vice Presidents of the Hungarian Competition Authority comes to an end if:

- a) the term of the appointment expires; or
- b) the President (Vice President) resigns his position; or
- c) the President (Vice President) dies; or
- d) the President (Vice President) is relieved of his position by the President of the Republic acting upon a proposal by the Prime Minister.

**President and Vice Presidents**

(5) The President (Vice President) will be relieved of his position, if he has:

- a) become unworthy of fulfilling it; or
- b) become incapable of fulfilling it; or
- c) failed to report or put an end to any grounds for incompatibility (Article 40); or
- d)<sup>67</sup>

(6)<sup>68</sup> Should grounds for refusal linked to the position of the official established by Article 34/A(1) are present, furthermore should the official fail to prove in accordance with this act the lack of grounds for refusal, he or she shall be deemed unworthy of fulfilling his or her position.

(7) An official shall be deemed incapable of fulfilling his position where he has become permanently incapable of performing the attached duties, or where the performance of such duties by him does not meet the appropriate professional standards.

(8)<sup>69</sup> The President and the Vice Presidents of the Hungarian Competition Authority must be nominated within the three-month period preceding the date of expiry of the term of appointment of their predecessors, and the procedure required for their appointment must be concluded as early as one month before the date of expiry of the preceding appointment.

<sup>66</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>67</sup> Established by Act CII of 2001; entering into force as of 24 December 2001.

<sup>68</sup> Amended by Act CXLIX of 2009; entering into force as of 1 January 2010.

<sup>69</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

35/A<sup>70</sup>

(1) Prior to their nomination the candidates for the position of the President and the Vice Presidents of the Hungarian Competition Authority, furthermore the candidates for members of the Competition Council shall prove with official certificates to the Prime Minister or to the President of the Hungarian Competition Authority respectively the fact that no grounds for refusal pursuant to Article 34/A (1) are present.

(2) The Prime Minister, furthermore the President of the Hungarian Competition Authority may call upon the President and the Vice Presidents of the Hungarian Competition Authority and the members of the Competition Council respectively in the course of their term of appointments in writing - with a warning to the legal consequences of negligence – to prove that no grounds for refusal pursuant to Article 34/A (1) are present.

(3) Should the President, the Vice Presidents of the Hungarian Competition Authority or the members of the Competition Council certify, upon the call pursuant to paragraph (2) within fifteen working days calculated from the day of the call – if it is not possible within this deadline as a result of a cause beyond the control of the person, then immediately following the termination of that cause –, that no grounds for refusal pursuant to Article 34/A (1) are present, the Hungarian Competition Authority shall reimburse the official the administrative fee paid for the procedure initiated upon application for an official certificate issued by the criminal records office.

(4) Pursuant to paragraphs (1) and (3), the Prime Minister administers the personal data of the President, Vice Presidents of the Hungarian Competition Authority and the President of the Hungarian Competition Authority administers those data of the members of the Competition Council until the end of the term of the position which he or she has been appointed to.

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<sup>70</sup> Established by Act CXLIX of 2009; entering into force as of 1 January 2010.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

## Article 36

## (1) The President of the Hungarian Competition Authority:

- a) directs the activities of the Hungarian Competition Authority;
- b) represents the Hungarian Competition Authority;
- c) establishes the organisational and operational rules of the Hungarian Competition Authority and approves the organisational and operational rules of the Competition Council;
- d)<sup>71</sup> exercises the rights of employer except for the appointment and dismissal of the members of the Competition Council;
- e)<sup>72</sup> appoints the persons representing the Hungarian Competition Authority in the Advisory Committee of Restrictive Practices and Dominant Positions of Regulation (EC) No 1/2003, and in the Advisory Committee on Concentrations set up by Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (hereinafter: Regulation (EC) No 139/2004); and
- f)<sup>73</sup> directs the activities of the Hungarian Competition Authority, the objective of which is to develop competition culture and the culture of informed decision-making by consumers in order to promote public awareness of competition, compliance with the law and the creation of a competitive regulatory environment ensuring informed decision-making by consumers, furthermore, to improve the consciousness of consumers. In the scope of his duties, he is responsible, in particular, for
  - fa) the improvement of public awareness of competition policy, the decision-making by consumers and its protection, as well as
  - fb) the contribution of the Hungarian Competition Authority to the development of competition-related legal and economic activities of public interest.

**duties of the  
President**

## (2) The President of the Hungarian Competition Authority:

- a) may take part in the sessions of Parliament;
- b) will, when requested, give expert advice to Parliament on issues relating to economic competition;
- c) submits annual reports to Parliament and, upon request, to the competent parliamentary committee on the activities of the Hungarian Competition Authority and, on the basis of his law enforcement experience, on how fairness and freedom of competition are observed; and
- d) attends, with consultative rights, the meetings of the Government where issues relating to the scope of duties of the Hungarian Competition Authority are discussed.

**reports to  
Parliament and its  
committee**

<sup>71</sup> Established by Act CII of 2001; entering into force as of 24 December 2001.

<sup>72</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>73</sup> Amended by Act XIV of 2009; entering into force as of 1 June 2009.

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<b>competition advocacy</b>	(3) <sup>74</sup> The President of the Hungarian Competition Authority, except for the provisions of Section (4) below, shall be solicited for his opinion concerning all measures drafted, and legislation in conception or drafted that have a bearing on the responsibilities of the Authority, in particular if such planned measures or legislation restrict competition (performance of some activity or entry into the market), grant exclusive rights or contain provisions pertaining to prices or terms of sale.
<b>collecting data outside proceedings</b>	(4) <sup>75</sup> The notary of a municipality may solicit the President of the Hungarian Competition Authority for his opinion concerning draft municipality regulations, which have, as set out in Section (3) above, a bearing on the responsibilities of the Hungarian Competition Authority.
<b>notices</b>	(5) <sup>76</sup> At the request of the Government or ministers or international organisations, the President of the Hungarian Competition Authority shall report on experience gained in the course of his activities relating to economic competition and on issues relating to economic competition. For this purpose, the President of the Hungarian Competition Authority may, on a voluntary response basis, collect data and request information.
<b>competition culture</b>	(6) <sup>77</sup> The President of the Hungarian Competition Authority may issue, together with the Chair of the Competition Council, notices, which describe the basic principles of the law enforcement practice of the Hungarian Competition Authority. Notices have no binding force; their function is to increase the predictability of law enforcement.
	(7) <sup>78</sup> The President of the Hungarian Competition Authority may vest, by the decision on foundation, separate legal personality in the unit of the Hungarian Competition Authority created for the purposes of the development of competition culture in Hungary and the European Community and of the promotion of the development of the institutional system of competition law enforcement in the region.
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	Article 36/A <sup>79</sup>
<b>General Secretary</b>	The General Secretary of the Hungarian Competition Authority leads, under the direction of the President of the Hungarian Competition Authority, leads the organisation of the Hungarian Competition Authority, in accordance with the legal norms and professional requirements. The General Secretary shall be categorised as bureauhead-investigator.
	Article 37
<b>Competition Council</b>	(1) The Competition Council consists of a Chair and members. The Competition Council performs duties defined by this Act.
<b>Chair of the Competition Council</b>	(2) The Chair of the Competition Council: <ul style="list-style-type: none"> <li>a) organises the activities of the Competition Council;</li> <li>b) supervises compliance with procedural deadlines;</li> <li>c) prepares and submits for approval (point c) of Article 36(1)) the organisational and operational rules of the Competition Council;</li> </ul>

<sup>74</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>75</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>76</sup> Its number was modified by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>77</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>78</sup> Amended by Act XIV of 2009; entering into force as of 1 June 2009.

<sup>79</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009.

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d)<sup>80</sup> ensures publication of the resolutions of the Competition Council (Article 80); and

e)<sup>81</sup> may act as a member of the proceeding competition council.

#### Article 38

#### members of the Competition Council

(1)<sup>82</sup> Following a nomination by the President of the Hungarian Competition Authority, the members of the Competition Council are appointed and dismissed by the President of the Republic of Hungary. The appointment is made for a period of six years. After the expiry of the six-year period, the appointed persons may be reappointed on one occasion.

(2)<sup>83</sup> In the course of the competition supervision proceeding, the members of the Competition Council are subject only to the law; otherwise they are civil servants of the Hungarian Competition Authority.

(3) A member of the Competition Council will be relieved of his position if he has:

a) become unworthy of fulfilling it (Article 35(6)); or

b) become incapable of fulfilling it (Article 35(7)); or

c) failed to report or put an end to any grounds for incompatibility (Article 40); or

d) been subject to the disciplinary punishment of dismissal; or

e)<sup>84</sup> failed to fulfil, or has fulfilled inappropriately, his obligation to make a property declaration.

#### Article 39

#### investigators

Civil servant staff of the Hungarian Competition Authority performing investigations or duties aimed at promoting investigations (hereinafter: investigator) is appointed by the President of the Hungarian Competition Authority.

#### Article 40

#### incompatibility

(1) The President and Vice Presidents of the Hungarian Competition Authority, members of the Competition Council and the investigators shall not undertake any other assignment, shall not take up other gainful employment and may not be executive officials or members of the supervisory boards of companies or cooperatives, except for legal relations established for the performance of scientific, educational, artistic activities, activities falling under the protection of copyright or industrial property rights and literary advisory or editorial activities (incompatibility).

(2) Such persons shall, without delay, report the occurrence of any reason for incompatibility to the person exercising the right of employer. The person exercising the right of employer shall set a short period of time for the elimination of the grounds for incompatibility.

(3) Where the person obliged to report incompatibility has failed to carry out that obligation, or to eliminate incompatibility within the time limit specified for this purpose, he shall be relieved of his duties.

<sup>80</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>81</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>82</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>83</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>84</sup> Established by Act CII of 2001; entering into force as of 24 December 2001.

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**property  
declarations**

(4)<sup>85</sup> The President and the Vice Presidents of the Hungarian Competition Authority and the members of the Competition Council shall make property-declarations, as determined by the rules relating to Member of Parliament, for the first time within thirty days following their appointment. The rules relating to the recording, control and treatment of the property declarations of Member of Parliaments shall apply to the recording, control and treatment of the property declarations in question.

(5)<sup>86</sup> The President and the Vice Presidents of the Hungarian Competition Authority and the members of the Competition Council shall be stripped of their mandate if they refuse or fail to fulfil their obligation to make a property declaration or intentionally supply false information in respect of any important fact or data in their property declarations.

Article 41<sup>87</sup>

Article 42<sup>88</sup>

(1) The President and the Vice Presidents of the Hungarian Competition Authority are entitled to a salary and to benefits equal to those of ministers and state secretaries respectively; furthermore, the President and the Vice Presidents are entitled to a leader allowance which amounts to 110 per cent and 100 per cent of their basic salary respectively; furthermore, the President and the Vice Presidents are entitled to a salary bonus which amounts to 80 per cent of their basic salary. The members of the Competition Council are entitled to a basic salary, which is ten times as high as the basic remuneration of civil servants.

(2) The President and the Vice Presidents of the Hungarian Competition Authority, who have held their position for three years and whose mandate comes to an end as a result of the expiry of the term of the appointment, the reaching of an age limit set by a separate statute or the pensioning, are entitled for further three months to benefits corresponding to the amount of their monthly salary. Where the mandate comes to an end due to death, the heir is entitled to the benefits.

(3) Where the mandate comes to an end in more than three years, the annual increase in the benefits pursuant to Section (2) above shall equal, by each of the additional years during which the position is held, to the monthly amount of the salary but the additional benefits may not exceed the amount of twelve months' salary.

Article 42/A<sup>89</sup>

(1) The investigators shall be categorised as junior investigator, investigator, investigator-adviser, principal investigator-adviser and leading principal investigator-adviser.

(2)<sup>90</sup> The President may charge the investigator to work as bureauhead-investigator or deputy bureauhead-investigator, assuming the responsibilities of, or acting as deputy for, the leader of a separate unit respectively.

<sup>85</sup> Amended by Act CLII of 2007; entering into force as of 1 January 2008.

<sup>86</sup> Established by Act CLII of 2007; entering into force as of 1 January 2008.

<sup>87</sup> Repealed by Act LXXIX of 1997; no longer in force as of 2 August 1997.

<sup>88</sup> Amended by Act CIX of 2006; entering into force as of 1 January 2007.

<sup>89</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

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**The Competition Act (Act LVII of 1996)**

**grading and  
advancement of the  
investigators**

(3)<sup>91</sup> Junior investigators, investigators, investigator-advisers and principal investigator-advisers are entitled to an additional leave of five, ten, eleven and twelve workdays, respectively; leading investigator-advisers, deputy bureauhead-investigators and bureauhead-investigators (as leaders) are entitled to an additional leave of thirteen workdays.

(4) The basic salary of the investigator shall be

- a) 4 times, for junior investigators,
- b) 7 times, for investigators,
- c) 7,5 times, for investigator-advisers,
- d) 8 times, for principal investigator-advisers,
- e) 8,25 times, for leading principal investigator-advisers,
- f)<sup>92</sup> 8,5 times, for deputy bureauhead-investigators,
- g)<sup>93</sup> 9 times, for bureauhead-investigators,

as high as the basic remuneration established by a separate statute.

(5)<sup>94</sup> The extent of the leader allowance shall amount to 20 per cent, for principal investigator-advisers, 30 per cent, for leading principal investigator-advisers, 40 per cent, for deputy bureauhead-investigators and 90 per cent, for bureauhead-investigators, of their respective basic salaries.

(6) The investigators shall be included in the category:

- a)<sup>95</sup> junior investigator, if they are career-starting civil servants or, for a period of probation, if they are not career-starting civil servants;
- b) investigator, if they have worked as junior investigators for at least two years for the Hungarian Competition Authority and have got an assessment of at least “eligible” or they have had at least three years’ work experience in their special fields and took a primary examination in public administrative knowledge or have been equivalently qualified.

<sup>90</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>91</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>92</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>93</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>94</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>95</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

## (7) The investigators

a) shall be included in the category of investigator-adviser, if they have had two years' work experience as investigators, have got an assessment of "eligible" and have undertaken a specialist examination in public administrative knowledge or have obtained equivalent qualifications;

b) may be included in the category of principal investigator-adviser, if they have received an assessment of "excellently suitable" and have undertaken a specialist examination in public administrative knowledge or have obtained equivalent qualifications;

c) principal investigator-advisers, to whom special responsibilities have been granted, may be included in the category of leading principal investigator-adviser, if the performance of their work is at an outstanding level.

(8)<sup>96</sup> Civil servants who have undertaken a specialist examination in public administrative knowledge or have obtained equivalent qualifications are eligible to be appointed as bureauhead-investigators or deputy bureauhead-investigators.

(9)<sup>97</sup> In each calendar year, subject to the existence of their legal relations to the Hungarian Competition Authority on the date of payment and the non-suspension of the work they actually performed during the six months' period in question, staff members employed as civil servants by, or in employment in, the Hungarian Competition Authority are entitled to two times one month's salary paid on two occasions as additional benefits. The additional benefits shall be paid in two parts until the end of the month following the six months' period in question.<sup>98</sup>

**civil servants not  
university or college  
graduates**

(10)<sup>99</sup> Civil servants who are not university or college graduates and who are employed in positions promoting the basic activities of the Hungarian Competition Authority are entitled to a salary bonus the extent of which amounts to 50 per cent of their basic salary.

## Article 43

**university or college  
graduates**

(1) Members of the Competition Council must be university or college graduates in their specialist fields. Law officer members of the Competition Council must have taken a specialist examination in law.

(2) Investigators of the Hungarian Competition Authority must be university or college graduates in their specialist fields.

<sup>96</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>97</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>98</sup> Repealed by Act CX of 2008; no longer in force as of 1 January 2009. Reentering into force by Act CX of 2008, applicable again as of 1 January 2010.

<sup>99</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

Article 43/A<sup>100</sup>**competition culture**

The Hungarian Competition Authority shall be authorised to use twenty-five per cent as a maximum of the yearly average of the total amount of fines collected in the preceding two years for the development of competition culture and the culture of conscious consumer decision-making – in particular for the funding of scientific and educational programmes in the field of competition law, competition and consumer protection policy, for the training of experts dealing with competition law, competition and consumer protection policy, for providing information in order to raise the awareness concerning competition policy, consumer decision-making and consumer protection – and for the operation of the OECD-GVH Regional Centre for Competition in Budapest. In each year, at least that portion of the available amount of money shall be used for the development of the culture of conscious consumer decision-making, which portion the amount of fines imposed for the infringement of the Act on the Prohibition of Unfair Commercial Practices against Consumers represents within the total amount of fines collected in the previous year. The amount available for this specific goal but not spent in a particular fiscal year, can be transferred to the following fiscal year and can be used for the development of competition culture and the culture of conscious consumer decision-making. The five per cent of the yearly average of the total amount of fines collected in the preceding two years shall be used in each year for the operation of the OECD-GVH Regional Centre for Competition in Budapest. The Hungarian Competition Authority shall be authorised to use the total amount of the procedural fees and procedural fines paid in the previous year for covering the expenses of performing responsibilities concerning the competition supervision proceedings and the sectoral inquiries.

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<sup>100</sup> Amended by Act CIX of 2009; entering into force as of 1 January 2010.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

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**PART THREE**  
**Chapter VIII<sup>101</sup>**  
**Sectoral inquiries**

Article 43/B<sup>102</sup>

In the course of the sectoral inquiries of the Hungarian Competition Authority the provisions of Articles 49 to 51 shall be applied *mutatis mutandis*. The sectoral inquiries shall otherwise be governed *mutatis mutandis*, except where this Chapter provides otherwise, by the provisions of Act CXL of 2004 on the General Rules of Public Administrative Procedures and Services (hereinafter: PAPA).

Article 43/C<sup>103</sup>

(1) Where price movements or other market circumstances suggest that competition is being distorted or restricted in a market belonging to the sector in question, the President of the Hungarian Competition Authority starts, by order, inquiry into the sector in order to understand and appraise the functioning of the market. The reasoning to the order directing an inquiry into the sector to be opened shall specify the market circumstances that necessitated the opening of the sectoral inquiry. The order opening the inquiry shall be published in an announcement on the Internet homepage of the Hungarian Competition Authority. The sectoral inquiry shall be conducted by civil servants appointed by the President of the Hungarian Competition Authority to proceed in such capacity.

(2)<sup>104</sup> In the course of the sectoral inquiry, the President of the Hungarian Competition Authority may request, setting a time limit for compliance, the undertakings in the relevant economic sector to provide information. The President of the Hungarian Competition Authority may impose fine on undertakings that do not observe, or not observe within the specified time limit the request for information of the President of the Hungarian Competition Authority, or supply incorrect or false information. The minimum fine shall be HUF fifty thousand; the maximum shall be one per cent of the undertaking's net turnover in the preceding business year. Undertakings exceeding the specified time limit may be fined on a daily basis. The maximum amount of this fine shall be one per cent of the undertaking's per-day net turnover in the preceding business year.

sectoral inquiries

(3)<sup>105</sup> If the President of the Hungarian Competition Authority, in the case specified in Section (1) above, requests central state bodies or the National Bank of Hungary, which have in their possession individual data, and combined data allowing the identification of data-suppliers, to supply those data within the framework of national legal assistance, no fines may be imposed on the organisations specified in this section.

Article 43/D<sup>106</sup>

(1) The undertakings and the organisations mentioned in Article 43/C(3) shall be obliged to supply the information requested pursuant to Sections (2) and (3) of Article 43/C including business secrets, to the Hungarian Competition Authority.

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<sup>101</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>102</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>103</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>104</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>105</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>106</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(2) The expert may have access in the course of the sectoral inquiries to the documents which are necessary to perform his duties, including those which contain business secrets, bank secrets, payment secrets<sup>107</sup>, insurance secrets or secrets defined by separate statutes and relating to the treatment of securities or the operation of funds.

(3)<sup>108</sup> Persons obliged to supply information may request information containing business secrets not to be disclosed, with regard to the need of protection of business secrets (point a) of Article 4(3). The President of the Hungarian Competition Authority may oblige the requesting persons, except the organisations specified in Article 43/C(3), to prepare a version of the document concerned which does not contain business secrets.

Article 43/E<sup>109</sup>

(1) The Hungarian Competition Authority shall prepare a report on the results of its sectoral inquiries within a reasonable period of time. The President of the Hungarian Competition Authority may publish a version of the report which does not contain qualified data<sup>110</sup>, bank secrets, payment secrets<sup>111</sup>, insurance secrets, secrets defined by separate statutes and relating to the treatment of securities or the operation of funds or business secrets.

(2) Before publishing the report the Hungarian Competition Authority shall give the opportunity to the persons concerned to submit written observations about the content of the report and it may also hold hearings for this purpose. The version of the report which does not contain business secrets shall be sent to the persons concerned at a time early enough to afford them at least thirty days for submitting their written observations or preparing themselves for the hearing. Concurrently with publishing the report and at the same place, the Hungarian Competition Authority will, when requested, publish a summary of the written observations or of the statements made at the hearings or the documents, which contain observations on the substance of the report.

(3) Subject to the content of the report defined in Section (1) above, the President of the Hungarian Competition Authority

a) may order the commencement of a competition supervision proceeding pursuant to Article 70 against an undertaking;

b)<sup>112</sup> will inform the responsible committee of Parliament or the responsible minister or authority of market failures detected by the sectoral inquiry, which cannot be remedied in competition supervision proceedings.

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<sup>107</sup> Established by Act LXXXV of 2009; entering into force as of 1 November 2009.

<sup>108</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>109</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>110</sup> Amended by Act CLV of 2009; entering into force as of 1 April 2010.

<sup>111</sup> Established by Act LXXXV of 2009; entering into force as of 1 November 2009.

<sup>112</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

Article 43/F<sup>113</sup>

The orders directing an inquiry to be commenced, imposing fines or refusing to treat the contents of the documents as business secrets pursuant to Article 43/C(1), 43/C(2) or 43/D(3) respectively, may be contested by request for review by the court within fifteen days of the conveyance of the order. Requests for a legal remedy shall be considered by the Budapest Metropolitan Court immediately.

**Chapter IX<sup>114</sup>****Complaints and informal complaints**Article 43/G<sup>115</sup>

(1) On observation of a conduct in relation to which the Hungarian Competition Authority has the power to proceed and which infringes Article 8, 10, 11, 21 or 24 of this Act or Article 81 or 82 of the EC Treaty or the provisions laid down in UCPA, any person may make a complaint or an informal complaint to the Hungarian Competition Authority.

(2) The procedure relating to complaints or informal complaints is not part of the competition supervision proceeding; the provisions of Chapters X to XII, except for those in Articles 54, 55(5), 65(7) and 65(9), are not applicable in procedures relating to complaints or informal complaints.

Article 43/H<sup>116</sup>

(1) Complaints can be made by the submission to the Hungarian Competition Authority on a properly completed form issued by the Hungarian Competition Authority. The form shall contain the relevant facts needed for the assessment of the complaint, including, in particular, the data necessary for the identification of the complainant and the undertaking(s) complained of, the identification of the alleged infringement, a description of the particular conduct through which the alleged infringement was committed, the basic information required to define the relevant market, an indication of the duration of the alleged infringement, furthermore facts and evidence supporting the statements made on the alleged infringement.

(2)<sup>117</sup> Of the provisions of PAPA, only those of Articles 17, 26, 40, 40/A, 58 and 59, 69 (1), 72 and 73, 78, 79 and 80, 81, 81/B and 153 shall be applied in procedures relating to complaints except that the term party used by PAPA means the complainant.

(3)<sup>118</sup>

<sup>113</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>114</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>115</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated afterwards.

<sup>116</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

## complaints

(4)<sup>119</sup> The investigator may collect data, which are needed for the assessment of the complaint and hold hearings with the participation of the interested persons. Neither procedural fines may be imposed on persons concerned refusing to cooperate in the course of the procedure, nor coercive measures may be applied against them. Repeated complaints having the same content as a complaint previously made by the same complainant do not need to be considered.

(5)<sup>120</sup> Persons supplying data to the Hungarian Competition Authority during the examination of a complaint may request limitation of access to the documents or to the making of copies thereof, with reference to the need of protection of business secrets. When deciding about this request, the investigator may oblige the data supplier to prepare a version of the document concerned which does not contain business secrets. Only complainants, after the date when a resolution by order on the assessment of the complaint was made and only in cases to which point b) of Section (8) applies, may have access to the documents of the procedure in order to exercise their right to resort to legal remedy except in cases where the investigator ordered limitation of access to the documents, with regard to the need of protection of business secrets.

(6) The costs of the procedure are advanced and borne by the state. If in the course of the competition supervision proceeding an infringement committed by the conduct specified in a complaint is established, the costs of the procedure relating to the complaint must be borne by the parties whose conduct was found to infringe the law.

(7) The complainant may request non-disclosure of his identity or of the fact that he made a complaint to the Hungarian Competition Authority.

(8)<sup>121</sup> Within two months of receipt of the complaint, the investigator shall issue an order:

- a) to open an investigation pursuant to Article 70(1), or
- b) to state, based on the data supplied by, or obtained in the procedure conducted on the basis of, the complaint that the conditions for the opening of an investigation set out in Article 70(1) are not fulfilled, or
- c) <sup>122</sup> to refer the complaint to another authority, where that other authority has the power to proceed, including the power to proceed in a specified territory, in the case concerned by the complaint. .

(9)<sup>123</sup> The time limit defined in Section (8) may be extended by two months where justified.

(10) Complainants shall be informed of the resolution by order made pursuant to point b) of Section (8) in all cases; undertakings complained of shall be informed of it only in cases where they participated in the procedure.

<sup>117</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>118</sup> Repealed by Act XLVII of 2008; no longer in force as of 1 September 2008.

<sup>119</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>120</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>121</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>122</sup> Established by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>123</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(11)<sup>124</sup> The complainant may seek legal remedy against an order made pursuant to point b) of Section (8) above, within eight days of the conveyance of the order. Applications for a legal remedy shall be considered by the Budapest Metropolitan Court pursuant to the rules applying for the judicial review of orders made in the course of public administrative proceedings. If the court considers point a) of Section (8) to be applicable, it will oblige the investigator to order the opening of an investigation within thirty days.

#### Article 43/I

(1)<sup>125</sup> The Hungarian Competition Authority must treat complaining documents other than complaints within the meaning of Article 43/H(1), as informal complaints. The procedure relating to informal complaints is governed by the provisions of this Article.

(2)<sup>126</sup> Where the Hungarian Competition Authority is not empowered to proceed in the case concerned by the informal complaint, it must refer the informal complaint within ten working days to the body, which has the power to proceed, including the power to proceed in the territory concerned, in the case and notify the person making the informal complaint of this measure.

(3)<sup>127</sup> Informal complaints shall be assessed within twenty-two working days of the date of receipt of them. Where laying the foundations for the assessment of an informal complaint is expected to take more than twenty-two working days, the investigator shall notify this fact to the person making the informal complaint before the expiry of the original time limit for settlement, indicating at the same time the likely date for settlement.

(4)<sup>128</sup> The investigator may hear the person making the informal complaint and the undertaking(s) complained of and he may request them to provide further clarification and information. The person making the informal complaint may request non-disclosure of his identity or the fact that he made an informal complaint to the Hungarian Competition Authority.

(5) Repeated informal complaints having the same content as an informal complaint previously made by the same person or informal complaints made by anonymous persons do not need to be considered.

(6) On the basis of the informal complaint, where the informal complaint is proved to be well founded, the investigator shall decide on taking the necessary measure and notify the person making the informal complaint on his resolution.

#### informal complaints

<sup>124</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>125</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>126</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>127</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>128</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated afterwards.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

## Chapter X<sup>129</sup>

### General Rules Governing the Competition Supervision Proceedings of the Hungarian Competition Authority

*Application of the general rules of public administrative procedures*<sup>130</sup>

Article 44<sup>131</sup>

Unless otherwise provided by this Act, competition supervision proceedings shall be governed by the provisions of PAPA, with the exception of Article 18, Article 29(3)-(11), Article 30, Article 33(1), furthermore Article 33/A, Article 33/B, Article 36(2)-(4), Article 38, Article 46(2), Article 47, Article 51(1) and (5), Article 61(1), Article 70, Article 72(4), Article 74(2)-(5), Article 88(1), Article 94, Article 109(2)-(4) and Articles 127-129 of PAPA.

*Power to proceed, power to apply the Act in a specified territory*

Article 45

**power to proceed**

The Hungarian Competition Authority shall have power to proceed in all competition supervision cases except for those in relation to which the courts have jurisdiction (Article 86).

Article 46

The power to proceed of the Hungarian Competition Authority covers the whole territory of the country.

*Phases of the competition supervision proceeding; composition of the proceeding body; exclusion*

Article 47

**phases of the proceeding**

(1) The competition supervision proceeding consists of the following phases:

- a) the procedure of the investigator;
- b) the procedure of the competition council;
- c) post-investigation; and
- d) enforcement.

(2)<sup>132</sup> In the course of the proceeding, the investigator and the competition council proceeding in the case may make orders, but a decision on the substance of the case may be made only by the competition council proceeding in the case.

Article 48

**proceeding**

(1)<sup>133</sup> The resolutions of the proceeding competition council shall be made by a panel of three or five members.

<sup>129</sup>

Its number was modified by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>130</sup>

Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>131</sup>

Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>132</sup>

Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>133</sup>

Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

**competition council** (2) Where this law speaks of competition council proceeding in the case, this term means the board defined in the above Section (1). In other cases, the investigator or a member of the competition council proceeding in the case may proceed alone.

Article 49

(1) The following persons must be excluded from dealing with a particular case:

- a) the parties, persons jointly authorised or sharing obligations with the parties, and persons whose rights or obligations may be affected by the result of the proceeding;
- b) representatives of the persons defined in the above point a);
- c) relatives and former spouses of the persons defined in the above points a) and b);
- d) persons who have been heard in the course of the proceeding as witnesses or experts, or the hearing of whom as witnesses or experts has been ordered; or
- e) persons who cannot be expected to form an objective opinion of the case (prejudice).

(2)<sup>134</sup>

**exclusion**

Article 50

(1) Investigators and members of the competition council proceeding in the case shall, without delay, notify the President of the Hungarian Competition Authority and the Chair of the Competition Council respectively, if any of the above reasons for their exclusion from the proceeding exists. Investigators and members of the competition council proceeding in the case shall bear disciplinary responsibility and financial liability for failure to make such notification or for any delay in making such a notification.

(2) Reasons for exclusion may be reported by a party at any phase of the proceeding; however, in the course of the procedure of the competition council, he may enforce them only in cases where he makes it probable at the same time that he has just acquired knowledge of the fact, which serves as a basis for exclusion.

(3)<sup>135</sup>

Article 51

(1)<sup>136</sup> In respect of the exclusion of an investigator or a member of the competition council proceeding in the case, the resolution shall be made within ten working days following the report of the reason of exclusion by the President of the Hungarian Competition Authority or the Chair of the Competition Council respectively, who will appoint at the same time the new investigator or the new member of the competition council proceeding in the case, if necessary.

<sup>134</sup> Repealed by Act CXXXVIII of 2000; no longer in force as of 1 February 2001

<sup>135</sup> Repealed by Act LVI of 2009; no longer in force as of 1 October 2009. No longer enforceable in proceedings initiated and repeated afterwards. Instead, Article 43(1) of Act CXL of 2004 on the General Rules of Public Administrative Procedures and Services (hereinafter PAPA) shall be applied.

<sup>136</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(2)<sup>137</sup> Where the investigator or a member of the competition council proceeding in the case has reported the reason for exclusion, he shall not take further part in the proceeding until the issue is settled. In any other case he may continue but shall not make resolutions resulting in the conclusion of the case. In the case of a notification made by a party repeatedly against the same person, such a limitation shall not apply.

(3)<sup>138</sup> Where the reason for exclusion was reported by a party, legal remedy (Article 77) against the order on the refusal of exclusion may be sought by request for a review, by the court, of the decision made by the competition council proceeding in the case.

(4)<sup>139</sup>

(5)<sup>140</sup> Where the Chair of the Competition Council acts as a member of a proceeding competition council, the rules relating to the procedure of his exclusion shall be the same as those governing the exclusion of the investigator.

#### *The party*

#### Article 52

For the purposes of this Act, the term “party” means a person, against whom a proceeding was started ex officio, as well as an applicant (Article 68) and a person who is the subject of the application.

#### Article 53

(1)<sup>141</sup> The legal successor may request the establishment of the succession in the proceeding commenced upon an application, within twenty-two working days of the setting in of the legal succession.

(2) Where, in the course of a proceeding started ex officio, a party has been wound up, its legal successor may be drawn into the proceeding. Where inclusion of the legal successor in the proceeding is not justified - with respect to the provisions in Article 70(1) - or where there is no legal successor to the party, the proceeding shall be terminated by the investigator or the competition council proceeding in the case.

(3) Where it is established from the available information that the proceeding started ex officio is directed at an inappropriate party, the appropriate party may be called into the proceeding and the previously involved party simultaneously released. Otherwise the proceeding shall be terminated by the investigator or the competition council proceeding in the case.

(4)<sup>142</sup> Where it is established from the available information that other undertakings are also engaged in the conduct under review, the investigator shall call those undertakings into the proceeding.

party

<sup>137</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>138</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>139</sup> Repealed by Act LXVIII of 2005; no longer in force as of 1 November 2005.

<sup>140</sup> Established by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>141</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>142</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(5)<sup>143</sup> Where granting authorisation in a proceeding commenced upon an application would require an obligation to be imposed on an undertaking, which is not a party to the proceeding that undertaking may enter as a party the proceeding, following such a request of the investigator. The undertaking entering the proceeding may not withdraw the application.

### *Representation*

#### Article 54

(1)<sup>144</sup>

(2) The following persons may proceed as proxy:

- a) a fellow party or his legal representative or proxy;
- b) a relative of the party;
- c) a lawyer or a law firm;
- d) an official in charge of a state body in cases relating to the activities of such a state body;
- e) a member or an employee of an economic organisation authorised to perform management responsibilities in cases related to the activities of such an economic organisation;
- f) organisations representing the interests of persons with an interest in the economic activity concerned; and
- g) persons authorised by law to proceed in such capacity.

representation

(3) In the case of a proxy defined in point f) of Section (2) the investigator or the competition council proceeding in the case may oblige the party to appoint another proxy, where he or it is expected to order in the case the hearing of the interest representation organisation.

(4)<sup>145</sup>

### *Access to the files, business secrets*

#### Article 55

(1)<sup>146</sup> The party may have access to the documents after the completion of the investigation, following the date set by the competition council proceeding in the case and he may make copies or take notes thereof. The starting date for the access shall be set early enough so as to enable the party to prepare for making a statement. Specifying the documents concerned, the competition council proceeding in the case may give its consent to the party having access to the documents before the completion of the investigation where this does not jeopardise the effectiveness of the proceeding.

access to the files

<sup>143</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>144</sup> Repealed by Act LVI of 2009; no longer in force as of 1 October 2009. No longer enforceable in proceedings initiated and repeated afterwards. Instead, Article 40(1) of PAPA.

<sup>145</sup> Repealed by Act LVI of 2009; no longer in force as of 1 October 2009. No longer enforceable in proceedings initiated and repeated afterwards. Instead, Article 40/A of PAPA.

<sup>146</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(2)<sup>147</sup> At any time in the course of the proceedings, the public prosecutor or, with the consent of the public prosecutor, the investigating authority may have access to all the documents of the proceedings and the expert may have access to the documents which are necessary to perform his duties, including those which contain business secrets, bank secrets, payment secrets<sup>148</sup>, insurance secrets or secrets defined by separate statutes and relating to the treatment of securities or the operation of funds; they may make copies or take notes of the respective documents.

**business secrets**

(3)<sup>149</sup> The party and other persons participating in the proceeding may request limitation of access to the documents or to the making of copies or to the taking of notes of the documents, with reference to the need of protection of business secrets. A separate legal remedy (Article 82) may be sought against an order made by the investigator or the competition council proceeding in the case, which rejects the request. When deciding about this request, the investigator or the competition council proceeding in the case may oblige the party or the other persons participating in the proceeding to prepare a version of the document concerned which does not contain business secrets.

(4)<sup>150</sup> A foreign authority may request that a part or the whole of the content of their response to a request for information be treated as a business secret. The treatment of business secrets is governed by the rules defined in Section (3).

**internal documents**

(5)<sup>151</sup> In the course of the proceedings of the Hungarian Competition Authority, the party and other persons participating in the proceedings may not have access to internal documents of the Hungarian Competition Authority, the European Commission, or the competition authorities of the member states, including documents drawn up pursuant to Articles 11 and 14 of Regulation (EC) No 1/2003, nor may they have access to correspondence between the Hungarian Competition Authority and other authorities, or between the latter, unless those internal documents are used in evidence when establishing the facts of the case.

*Justification for negligence*<sup>152</sup>

Article 56<sup>153</sup>

Article 57<sup>154</sup>

(1)<sup>155</sup> No application for justification may be submitted after two months of the specified date missed or of the last day of the time limit exceeded.

<sup>147</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>148</sup> Established by Act LXXXV of 2009; entering into force as of 1 November 2009.

<sup>149</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>150</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>151</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>152</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>153</sup> Repealed by Act LXVIII of 2005; no longer in force as of 1 November 2005.

**omission** (2) In respect of an application for justification, the resolution is made by the investigator during the investigation, or by the competition council proceeding in the case during the procedure of the competition council. A separate legal remedy (Article 82) may be sought against an order made by the investigator, which rejects the application for justification. An order rejecting the application for justification by the competition council proceeding in the case may be contested by the request for a review, by the court, of the decision made on the substance of the case.

*International legal assistance*<sup>156</sup>

Article 58

(1)<sup>157</sup>

(2)<sup>158</sup>

**international legal assistance**

(3)<sup>159</sup> Documents generated in the course of the proceeding may be made available on request to a foreign authority. Documents containing business secrets may only be made available if this is provided for by an international agreement promulgated by an act. Where the requested documents contain business secrets, a condition for disclosure is a commitment by the foreign authority to treat the contents of the documents as business secrets.

(4)<sup>160</sup> In order to contribute to the mutual promotion of the ability of the parties to perform their duties, the Hungarian Competition Authority may enter into cooperation agreements with foreign competition authorities.

*Service performed abroad*<sup>161</sup>

Article 59

(1)<sup>162</sup>

**service performed abroad**

(2) Service performed abroad shall be deemed valid if it meets the requirements laid down either in domestic law or the law of the country where the service is performed.

*Stay of the proceeding*

Article 60<sup>163</sup>

**stay of the proceeding**

In the case of a stay of the proceeding started upon an application, a separate legal remedy (Article 82) may be sought against the order of the investigator or the competition council proceeding in the case.

<sup>154</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>155</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>156</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>157</sup> Repealed by Act LXVIII of 2005; no longer in force as of 1 November 2005.

<sup>158</sup> Repealed by Act LXVIII of 2005; no longer in force as of 1 November 2005.

<sup>159</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>160</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>161</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>162</sup> Repealed by Act LXVIII of 2005; no longer in force as of 1 November 2005.

<sup>163</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

*Procedural fines*<sup>164</sup>Article 61<sup>165</sup>

(1) A procedural fine may be imposed on the party or other persons participating in the proceeding, furthermore on persons obliged to provide assistance in clarifying the facts of the case if they engage in an act or display behaviour which is aimed at protracting the proceeding or preventing the disclosure of facts, or which has such an effect.

(2)<sup>166</sup>

**procedural fines**

(3)<sup>167</sup> The minimum procedural fine shall be HUF fifty thousand, the maximum shall be one per cent of the undertaking's net turnover in the preceding business year, for undertakings and HUF five hundred thousand, for natural persons who do not qualify as an undertaking. In the case of exceeding time limits specified for the performance of procedural obligations, the maximum procedural fine shall be one per cent of the undertaking's per-day net turnover in the preceding business year, for undertakings and HUF fifty thousand per day, for natural persons who do not qualify as an undertaking. A separate legal remedy (Article 82) may be sought against an order imposing a procedural fine. The application has a suspensive effect on the implementation of the order. The investigator or the competition council proceeding in the case may also amend their order imposing a procedural fine.

*Procedural fees and costs*

## Article 62

(1)<sup>168</sup> Where the proceeding is started on application pursuant to Article 24 or 25, the applicant shall pay, upon submission of the application, a procedural fee of HUF four million. Where the competition council proceeding in a case started on the basis of Article 24, makes its decision pursuant to point b) of Article 63(3), an additional procedural fee of HUF twelve million shall be paid within ten working days of the date of service of the decision. In the case of termination of the proceeding pursuant to Article 68(5) half of the procedural fee paid shall be reimbursed to the party. There is no fee to be paid if a proceeding is terminated pursuant to Article 68(4).

**procedural fees**

(2)<sup>169</sup> Where, in the decision made on the substance of the case, the competition council proceeding in the case authorises, pursuant to point b) of Article 77(1), a concentration of undertakings it shall at the same time oblige the parties to pay the fee and costs determined in Section (1) above and Section (3) below respectively.

<sup>164</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>165</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005

<sup>166</sup> Repealed by Act LVI of 2009; no longer in force as of 1 October 2009. No longer enforceable in proceedings initiated and repeated afterwards. Instead, Article 62(5) of PAPA.

<sup>167</sup> Amended by Act LVI of 2009; entering into force as of 1 November 2009. It shall be applied in proceedings initiated afterwards

<sup>168</sup> Amended by Act XIV of 2009; entering into force as of 1 June 2009. The SLC test shall be applied in the case of mergers and acquisitions realised henceforward. The time limits for the payment of the procedural fines were amended by Act LVI of 2009 entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>169</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

costs

(3)<sup>170</sup> The parties are obliged to advance and, irrespective of the outcome of the proceedings, bear the costs of proceedings started on application. Where the application proves to be well founded, the procedural fee and costs may be divided between the applicant and the undertaking, which is the subject of the decision.

(4)<sup>171</sup> The costs incurred in proceedings started ex officio are borne by the party if an infringement is established. If no infringement is established, the costs of the proceeding started ex officio are borne by the state.

(5) In the case of proceedings started ex officio, if more than one undertaking is jointly engaged in unlawful practices, they shall bear joint and several liability for payment of the costs of the proceedings.

(6) No exemption may be granted from the obligation of payment of the fee and the costs of proceedings. Interpreters' fees are advanced and borne by the state.

(7)<sup>172</sup>

(8)<sup>173</sup> Separate legal remedy (Article 82) may be sought against the order establishing expenses accrued in the course of the proceeding, which has a suspensive effect on implementation.

*Time limits for settlement*<sup>174</sup>

Article 63

(1) It shall be an ex officio duty to ensure a thorough investigation of cases and completion within a reasonable period of time.

(2)<sup>175</sup> Unless another time limit is set by law, the resolution concluding the proceeding shall be made within,

a) in the case of proceedings started on the basis of Articles 8 to 10, three months of the date of the order to open the case;

b) in the case of proceedings started on the basis of Articles 11 and 21, six months of the date of the order to open the case;

c) in the case of proceedings started on the basis of Article 67 (3) for failure to submit an application for the authorisation defined by Article 24, six months of the date of the order to open the case.

time limits

<sup>170</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>171</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated afterwards.

<sup>172</sup> Repealed by Act LVI of 2009; no longer in force as of 1 October 2009. No longer enforceable in proceedings initiated and repeated afterwards. Instead, Article 54(1) and point 7 of Article 153(2) of PAPA.

<sup>173</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied also in proceedings ongoing at the time of its entering into force.

<sup>174</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>175</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(3)<sup>176</sup> In the course of the control of a concentration, the resolution concluding the proceeding shall be made within:

- a) thirty-five working days , where:
  - aa) no concentration pursuant to Article 23 or with a view to Article 25 is effected; or
  - ab) the thresholds set by Article 24 are not met by the given concentration; or
  - ac) granting authorisation for the concentration may clearly not be refused pursuant to Article 30(2);
- b) four months in all other cases;

of the date of receipt, or the completion, of the application.

(4)<sup>177</sup> In respect of the application of point b) of Section (3), the resolution shall be made by the competition council proceeding in the case within thirty-five working days of the date of receipt or completion of the application.

(5)<sup>178</sup> When reckoning the deadlines for settlement – in addition to the rules laid down in PAPA - the periods of time elapsed to take the following measures need not be taken into account:

- a) the time elapsed before calling the legal successor into the proceeding or its voluntary entry into the proceeding or calling the appropriate party into the proceeding or extending the application to cover the appropriate party,
- b) in the case of the death of the legal representative of the party if the legal representative did not have a proxy, before a notification concerning the new legal representative of the party,
- c-f)<sup>179</sup>
- g) the period of time used for the exclusion procedure relating to a member of the proceeding competition council,
- h) the time elapsed between the date of the commencement of the out-of-lawsuit procedures defined in Articles 65/A and 65/B and the date when the court made its decision,
- i) where the absence of a resolution concerning an application for legal remedy as defined in Article 82(3) prevents the resolution making, until the assessment of the application for legal remedy has been made.

**extension of the time limit**

<sup>176</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>177</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>178</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>179</sup> Repealed by Act LVI of 2009; no longer in force as of 1 October 2009. No longer applicable in proceedings initiated or repeated henceforward.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(6)<sup>180</sup> The time limit for settlement may be extended by a maximum of forty-five working days, in cases pursuant to point *a*) of Section (2) two times by a maximum of forty-five working days each, in cases pursuant to point *b*) of Section (2) two times by a maximum of six months each, in cases pursuant to point *a*) of Section (3) by fifteen working days, where justified.

(7)<sup>181</sup> Where an investigator is excluded, the deadlines for the investigation shall be counted from the appointment of the new investigator.

Article 64<sup>182</sup>

**authority being  
“silent”**

If in the case of proceedings started on application as defined by Article 67(2), the competition council proceeding in the case fails to make a resolution within the time limit defined by Article 63, the request shall be deemed to have been granted.

*Clarification of the facts of the case*

Article 65<sup>183</sup>

(1) When clarifying the facts of the case, the investigator and the competition council proceeding in the case shall apply the provisions of this Article and, except for those of Article 44, the rules laid down in PAPA relating to the clarification of the facts and to the control exercised by administrative authorities.

(2)<sup>184</sup> Parties shall be obliged to supply, at the request of the investigator or the competition council proceeding in the case, the data, which are necessary to decide on the substance of the case, including personal data. Parties shall not be obliged to make statements admitting an infringement of the law; they may however not refuse to supply incriminating evidence of any other kind.

(3)<sup>185</sup> Investigative measures may be carried out on any sites where evidence necessary to clarify the facts of the case is kept. For the purposes of the clarification of the facts of the case, any persons or organisations are obliged to provide the necessary information in writing too and send any documents relating to the subject of the investigation to the Hungarian Competition Authority.

(4)<sup>186</sup> Parties or other persons possessing documents are obliged, at the request of the investigator, to display, in a readable form or a form which is eligible to be copied, of information recorded on data carriers.

(5) The investigator and the competition council proceeding in the case shall be entitled to make copies of documents. In proceedings started *ex officio* the investigator shall be entitled to make forensic images of data carriers and to scrutinize, by means of the back-up copies, the data stored on those data carriers where the data carriers are likely to store data relating to the infringement of the law.

**investigatory powers**

<sup>180</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>181</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>182</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>183</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>184</sup> Amended by Act LXVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>185</sup> Amended by Act LXVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>186</sup> Amended by Act LXVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(6)<sup>187</sup> The investigator may also seize the documents, without writing a memorandum, by putting them in a storing device suitable for keeping them or in a separate room, to be closed and sealed by him subsequently.

(7) The Hungarian Competition Authority shall be authorised, in connection with the economic activity under review, to have access to, and manage, the personal data of the party and of other persons participating in the proceedings; it may seize records or databases containing data of this kind. Where a means of proof contains personal data, which do not relate to the subject of the proceeding and it is not possible to separate data without a lessening of the probative force of that means of proof, the Hungarian Competition Authority shall be authorised to manage any personal data concerned by the means of proof; it may however examine personal data not relating to the infringement which is subject of the investigation only to the extent necessary to ascertain that the data do not relate to the infringement which is subject of the investigation.

(8)<sup>188</sup>

(9)<sup>189</sup> The Hungarian Competition Authority may use documents, data, papers, any other information or any other means of proof, which were lawfully collected by it in the procedures defined in Chapters VIII to XII and Chapter XVI, in its other competition supervision proceedings.

(10)<sup>190</sup> Witnesses may be interviewed about the business secrets of parties even if they have not been released from their obligation of secrecy by the parties.

Article 65/A<sup>191</sup>

(1) In the course of proceedings started ex officio based on Article 11 or 21 of this Act or on Article 81 or 82 of the EC Treaty, the investigator may search, and enter on his own, against the will of the owner (possessor) and the persons staying there, any site or open to this end any land, buildings and rooms closed. When doing so, he may oblige the party or its agent or former agent, employee or former employee to provide information and explanation orally or in writing, or collect information on the spot in any other manner.

(2) In rooms used for private purposes or privately used, including vehicles and other land, investigative measures within the meaning of this Article may only be carried out, if they are in the use of any executive official or former executive official, employee or former employee, agent or former agent of the party or of any other person who exercises or exercised control as a matter of fact.

(3) Carrying out the investigative measures specified by this Article shall be subject to the attainment in advance of a judicial authorisation. The application for such an authorisation of the Hungarian Competition Authority shall be considered in a non-litigious procedure by the Budapest Metropolitan Court within seventy-two hours of receipt of the application. There is no appeal against the order of the court and no review is possible.

<sup>187</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated henceforward. It is a legal instrument with a similar content of the earlier sequestration.

<sup>188</sup> Repealed by Act LVI of 2009; no longer in force as of 1 October 2009. It shall not be applied in proceedings initiated or repeated henceforward.

<sup>189</sup> Amended by Act LXVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>190</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>191</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

**fact-finding  
measures**

(4) The court shall authorise the investigative measure applied for to be taken where the Hungarian Competition Authority is able to show that other investigative measures would be likely to result in failure, and there are reasonable grounds to presume that a source of the information relating to the specified infringement is kept on the site indicated by the application and it would presumably not be made available voluntarily, or would be made unusable. The court may authorise the investigative measure to be taken partially, specifying the target persons of the particular investigative measures.

(5)<sup>192</sup> Investigative measures may be carried out, based on the decision of the court, within three months of the issuance.

(6) The investigation shall be commenced concurrently, at the latest, with commencing the investigative measures specified by this Article. The party present shall be informed of the resolution issued by order pursuant to Article 70(1).

(7) When commencing them, the investigative measures specified by this Article shall be notified orally to the persons concerned and they shall be carried out, where possible, in the presence of the persons concerned. The persons concerned shall be informed, before the commencement of the investigative measures, of the decision of the court and the purpose of the investigative measures.

(8)<sup>193</sup> To carry out the investigative measures specified by this Article, the Hungarian Competition Authority may resort to the assistance of the police.

(9)<sup>194</sup> When taking an investigative measure within the meaning of this Article, the investigator shall be entitled to make copies of, or seize, means of proof, which are not relating to the subject of the investigation and are not covered by the authorisation of the court, but which are indicative of an infringement of Article 11 or 21 of this Act or of Article 81 or 82 of the EC Treaty. In respect of such means of proof, the authorisation of the court shall be obtained subsequently. The application for authorisation must be submitted within twenty-two working days, at the latest, of the measure taken. Should the procedure defined by Article 65/B be followed in respect of a means of proof, the application for the judicial authorisation shall be submitted within five working days of the conclusion of the procedure. Where a subsequent authorisation of the court was not obtained, the means of proof in question may not be used.

(10) The provisions laid down in Articles 65 and 65/B shall apply *mutatis mutandis* to the procedure defined by this Article.

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<sup>192</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>193</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>194</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

Article 65/B<sup>195</sup>

## legal privilege

(1) Documents prepared for the purposes of, or during, the exercise of the rights of defence of the parties or prepared in the course, or for the purposes, of communication between the parties and the lawyers appointed by them, furthermore documents containing statements made in the course of such communication, provided in each of these cases that this character is directly manifested by the document concerned, may not be used in evidence, examined or seized in the course of the competition supervision proceedings, and the owners of such documents may not be obliged in the course of inspections to present those documents, except where otherwise provided by this Article. Parties may waive the application of this prohibition.

(2) Documents not in the possession of the party (or its legal representative) or of a lawyer authorised by the party may not be qualified as documents, which may not be used in evidence according to Section (1) above unless the person concerned show they came out of his possession in an illegal manner.

(3) If the investigator intends to oblige the party (or its legal representative) or its authorised lawyer to present a document defined in Section (1) or if he intends to examine, take possession of or make copies of such a document during an inspection or during a search pursuant to Article 65/A, the party (or its legal representative) or its authorised lawyer may refuse to take action to grant the request. The investigator shall be entitled, without prejudice to the right protected by this Article, to have access to the document concerned in order to establish whether the reference to that document's falling under Section (1) is obviously unfounded.

(4) Where contrary to the statement made by the person concerned, the investigator considers the document not to be covered by Section (1), the document (or the forensic image made of it) shall be put in a storing device suitable to preclude access to the document. The lock on the storing device shall be authenticated by the person concerned and the investigator signing it in a manner, which prevents the storing device from being opened without the authentication being damaged. The Hungarian Competition Authority shall take possession of the storing device.

(5) In respect of whether the document concerned is covered by Section (1), the Budapest Metropolitan Court shall decide in a non-litigious procedure, at the request of the Hungarian Competition Authority, after having heard the party, within eight days of submission of the application. The Hungarian Competition Authority shall attach to its application the storing device containing the document.

(6) Should the court consider the document not to be covered by Section (1), it will hand the document over to the Hungarian Competition Authority; further treatment of the document will be governed by the general rules relating to documents. Should the resolution state the contrary, the court will forward the document to the party.

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<sup>195</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

(7) In cases where the content of a document is only partly covered by Section (1), the document shall be separated, provided that this does not result in a lessening of the probative force, and the procedure defined in Sections (4) to (6) shall be conducted only in respect of the part of the document, which is covered by Section (1). Should the separation mentioned above be carried out in respect of the forensic image of a data carrier, the procedure defined in Sections (4) to (6) shall be conducted by using a copy, which enables the separation to be carried out; subsequently, this copy may be used in the course of the procedure of the taking and assessing of evidence and the forensic image shall be stored as set out in Section (4) above. It shall be an exclusive power of the court to have access to that forensic image, in order to control the authenticity of the copy used in the course of the procedure of obtaining and assessing evidence.

(8) In cases where the document cannot be separated without a lessening of the probative force, the court shall identify by its order the parts of the document, which are being covered by Section (1). The document shall be stored as set out in Section (4) and it shall be given to the Hungarian Competition Authority. The storing device may be opened or the part of the document not covered by Section (1) may be examined only in the presence of the party. The party shall be notified, at least three days in advance, of the time, the likely duration and the place of such an investigative measure. The performance of the examination shall not be prevented by the lack of appearance of the duly notified party.

(9) In cases where the party (or its legal representative) could, as set out in Section (3), but failed to, ensure protection for the document, Section (1) shall not apply in respect of that document.

Article 66<sup>196</sup>

## Chapter XI<sup>197</sup>

### Performance of the Competition Supervision Proceeding of the Hungarian Competition Authority

#### *Commencement of competition supervision proceedings*

Article 67

(1)<sup>198</sup>

(2)<sup>199</sup> Competition supervision proceedings shall be commenced on application in the following cases:

- a) authorisation as defined by Article 24,
- b) extension of the period determined by Article 25, or

c)<sup>200</sup>

(3) The competition supervision proceedings may also be commenced ex officio where it is established that, in the cases defined by Section (2), the initiation of a competition supervision proceeding should have, but have not been, applied for.

**commencement of proceedings**

<sup>196</sup> Repealed by Act LXVIII of 2005; no longer in force as of 1 November 2005

<sup>197</sup> Its number was modified by Act LXVIII of 2005; entering into force as of 1 November 2005

<sup>198</sup> Repealed by Act LVI of 2009; no longer in force as of 1 October 2009. It shall not be applied in proceedings initiated or repeated henceforward. Instead, Article 29(1) of PAPA.

<sup>199</sup> Amended by Act LXVIII of 2005; entering into force as of 14 July 2005.

<sup>200</sup> Repealed by Act XIV of 2009; no longer in force as of 1 June 2009.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

time-bar

(4)<sup>201</sup> No investigation may be started where three years have elapsed since the infringement of provisions of Chapter III or five years elapsed since the infringement of provisions of Chapters IV to VI of this Act. Where the unlawful conduct is performed continuously, the time limit starts to run from the date of termination of the conduct. Where the unlawful conduct is committed through a failure to eliminate a state of affairs or situation, the time limit does not start as long as this state of affairs or situation exists.

(5)<sup>202</sup> Competition supervision proceedings, which may be commenced ex officio, shall start on the day on which the order pursuant to Article 70(1) is made.

*Commencement of investigation on application*

Article 68

(1)<sup>203</sup> An application for the commencement of a proceeding may be submitted by persons:

- a) obliged by Article 28(1) to obtain authorisation for a concentration, or
- b) obliged by a separate legal norm to notify a price increase in advance, or
- c) who were not able to fulfil within one year an obligation relating to disposal pursuant to Article 25.

application

(2)<sup>204</sup> Applications submitted pursuant to Article 24 shall be accompanied by a properly completed copy of the application form for the authorisation of a concentration issued by the Hungarian Competition Authority. Documents submitted without being accompanied by the form do not qualify as applications.

(3) Applications defined by Article 24 shall be submitted at the time defined by Article 28(2).

(4)<sup>205</sup> The applications shall contain all facts and details required for the assessment of the case. Where the information provided is seen as incomplete, the application may be returned on one occasion, within ten working days of receipt of it, by the investigator for completion setting a time limit for compliance. This time limit may be extended on one occasion where justified. Where the applicant fails to complete the information or provides inappropriate information following such a request, the investigator shall terminate the proceeding. Separate legal remedy (Article 82) against the order on terminating the proceeding may be sought.

(5)<sup>206</sup> The applicant may withdraw its application for the commencement of a proceeding in the course of the proceeding before the decision is made.

Article 69<sup>207</sup>

<sup>201</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>202</sup> Amended by Act LVI of 2009; entering into force of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>203</sup> Amended by Act LXVIII of 2005; entering into force as of 14 July 2005.

<sup>204</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>205</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>206</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>207</sup> Repealed by Act LXVIII of 2005; no longer in force as of 1 November 2005

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

*Opening an investigation ex officio*

## Article 70

(1)<sup>208</sup> The investigator shall issue an order opening an investigation upon observation of an activity, conduct or situation which may violate the provisions of this Act, provided that the Hungarian Competition Authority has the power to proceed in the case and the proceeding is necessary to safeguard the public interest. Such an order shall specify the circumstances and practices that necessitated the proceeding.

**starting proceedings  
ex officio**

(2)<sup>209</sup> Where the court, due to a lack of its jurisdiction, refers a case to the Hungarian Competition Authority, the investigator shall proceed in accordance with Article 68 in the cases defined by Article 67(2), and in accordance with Articles 43/G-43/I in other cases.

(3) The fact that an investigation has been opened may be disclosed. Where the opening of an investigation is disclosed to the public, the results of this investigation shall also be published.

(4)<sup>210</sup> The investigator shall extend the investigation by his order where an activity, conduct or situation may infringe or may also infringe, in addition to what has been indicated in the order initiating the case, another provision of this Act or Article 81 or 82 of the EC Treaty. The investigation may also be extended to activities, conducts or situations relating to those indicated in the order initiating the case.

(5)<sup>211</sup> The investigator may divide the competition supervision proceeding started against more than one party into separate proceedings if the case can be assessed in respect of the individual parties. The time limits for settlement, which apply to the proceedings conducted after the separation shall be the same as those governing the original proceeding.

*The report of the investigator*

## Article 71

(1)<sup>212</sup> After completing the investigation, the investigator shall prepare a report, which he shall submit to the competition council, together with the files.

(2) The report shall contain:

- a) the subject matter of the investigation,
- b) the facts established and the supporting evidence, and
- c) the proposal of the investigator relating to the further course of the proceeding and for interim measures where necessary.

(3) In justified cases, the investigator may, in a separate report, propose interim measures prior to the conclusion of the investigation.

**report of the  
investigator**

<sup>208</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005

<sup>209</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005

<sup>210</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>211</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>212</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

Article 71/A<sup>213</sup>

**termination of the proceeding by the investigator**

The investigator shall terminate the competition supervision proceeding started *ex officio*<sup>\*</sup>, if the evidence obtained in the course of the proceeding does not allow the existence of an infringement of this Act to be found and the continuation of the proceeding is likely to result in failure. The complainant shall also be informed of the order. Separate legal remedy (Article 82) may be sought against the order terminating the proceeding.

*The proceeding of the competition council*

## Article 72

**resolutions of the proceeding competition council**

(1)<sup>214</sup> After receipt of the report submitted by the investigator the competition council proceeding in the case:

a)<sup>215</sup> shall terminate the proceeding<sup>\*</sup> if the evidence obtained in the course of the proceeding does not allow the existence of an infringement of this Act to be found and the continuation of the proceeding is likely to result in failure; separate legal remedy (Article 82) may be sought against the order terminating the proceeding;

b)<sup>216</sup> may return the files to the investigator where it establishes that the clarification of the facts requires further investigation or that an extension of, or the calling of a new party into, the proceeding is justified;

**interim measure**

c)<sup>217</sup> may, by an interim measure, prohibit by its order the continuation of the illegal conduct or order the elimination of the unlawful situation, where prompt action is required for the protection of the legal or economic interests of the interested persons or because the formation, development or continuation of economic competition is threatened.

(2)<sup>218</sup> Where an interim measure is requested by a party, the proceeding competition council may require the providing of guarantees as a condition. The request relating to the ordering of an interim measure shall be considered immediately by the proceeding competition council.

(3)<sup>219</sup> A separate legal remedy (Article 82) may be sought against the order directing an interim measure to be taken or requiring the providing of guarantees.

(4)<sup>220</sup> The proceeding competition council may provide the investigator with guidance on the method and the direction of the conduct of the investigation as early as before closing the investigation.

<sup>213</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward. Instead of the first phrase that was repealed, under the same legal practice, the point e) of Article 31(1) of PAPA.

<sup>\*</sup> In addition to the rules laid down in PAPA

<sup>214</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005

<sup>215</sup> Amended by act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>\*</sup> In addition to the rules laid down in PAPA

<sup>216</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>217</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>218</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>219</sup> Established by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>220</sup> Its number was modified by Act XLVII of 2008; entering into force as of 1 September 2008.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(5)<sup>221</sup> The complainant shall also be informed of the order made pursuant to point a) of Section (1).

Article 73<sup>222</sup>

**preliminary position  
of the proceeding  
competition council**

(1) Where the measures defined by points a) and b) of Article 72(1) are unnecessary, the competition council proceeding in the case shall send its preliminary position about the case, which shall set forth the facts of the case which have been established, the evidence in support of them, the assessment of them and the substance of the aspects and the conclusions which are necessary to make a resolution, to the party.

(2) A preliminary position need not be prepared where the proceeding is started on application, the competition council proceeding in the case consents to the content of the application and the application of Article 30(3) is unnecessary. In such cases the competition council proceeding in the case shall reach its decision (Article 77) without a trial.

*The trial of the competition council*

Article 74

**trial of the  
proceeding  
competition council**

(1)<sup>223</sup> The competition council proceeding in the case shall hold a trial in so far this is requested by the party or considered necessary by the competition council proceeding in the case. Concurrently with sending its preliminary position, the competition council proceeding in the case shall ask the party to make a statement on whether it requests a trial to be held. The date of the trial shall be set in time to allow the party to prepare for the trial.

(2)<sup>224</sup> At the trial (or without holding a trial), the competition council proceeding in the case may terminate the proceeding by order in cases specified in point a) of Article 72(1).

(3)<sup>225</sup> Competition council trials shall be held in public. Through its reasoned order, the competition council proceeding in the case may exclude the public from the trial or part thereof, on request or ex officio, where such an exclusion is indispensable for the protection of the confidentiality of qualified data<sup>226</sup>, business secrets or data pertaining to the property status of a party, received from a credit institution (bank secrets) or from an insurance undertaking (insurance secrets), or secrets defined by separate statutes and relating to the treatment of securities or the operation of funds, or payment secrets<sup>227</sup> or with regard to the interests of the national economy.

<sup>221</sup> Its number was modified by Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>222</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>223</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>224</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>225</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>226</sup> Amended by Act CLV of 2009; entering into force as of 1 April 2010.

<sup>227</sup> Established by Act LXXXV of 2009; entering into force as of 1 November 2009.

*Commitments*<sup>228</sup>Article 75<sup>229</sup>**commitment orders**

(1) Where, in the course of competition supervision proceedings started ex officio, parties offer commitments to ensure, in a specified manner, compliance of their practices with the provisions of this Act or of Article 81 or 82 of the EC Treaty and if effective safeguarding of public interest can be ensured in this manner, the competition council proceeding in the case may by order make those commitments binding on the parties, terminating at the same time the proceeding, without concluding in the order whether or not there has been or still is an infringement of the Act. A separate legal remedy (Article 82) may be sought against the order.

(2) Commitment orders are without prejudice to the power of the Hungarian Competition Authority to start a new competition supervision proceeding in the case where there has been a material change in the circumstances or where the order was based on misleading information concerning a fact, which was fundamental to the making of the resolution. In the course of the new competition supervision proceeding, a resolution shall be made of the resolution issued by order, which was adopted previously based on Section (1).

*Post-investigation*Article 76<sup>230</sup>**post-investigation**

(1) The investigator shall hold a post-investigation in order to check

- a) the compliance with the commitments specified in the order pursuant to Article 75, or
- b) the fulfilment of the pre- or post-conditions provided by the decision, or
- c) the fulfilment of the obligations provided by the decision.

(2) The investigator may hold a post-investigation in cases concluded by the decision of the competition council proceeding in the case.

(3) The provisions of the competition supervision proceedings shall apply mutatis mutandis to the post-investigation.

<sup>228</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>229</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>230</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

(4) On the basis of the report submitted by the investigator, the competition council proceeding in the case shall

a) by order impose fines (Article 78) in cases pursuant to point a) of Section (1) where parties failed to comply with a commitment, except where, due to changes in the circumstances, the enforcement of compliance is not justified; in such cases and in cases where the commitments have been fulfilled, he shall by order terminate the post-investigation;

b) by order establish in cases pursuant to point b) of Section (1) whether the pre- or post-conditions have been satisfied,

c) in cases pursuant to point c) of Section (1), terminate by order the post-investigation where the obligation has been fulfilled or withdraw or amend by a decision its preceding decision where the obligation has not been fulfilled or the fulfilment is not justified, respectively;

d) in cases pursuant to Section (2), by order, terminate the post-investigation where voluntary compliance with the decision is established or order the decision to be enforced in the absence of compliance.

(5) Separate legal remedy (Article 82) may be sought against the order imposing fines pursuant to point a) of Section (4).

### *Decisions*<sup>231</sup>

#### Article 77

(1)<sup>232</sup> The competition council proceeding in the case,

a) shall decide on the applications specified by Article 67(2),

b) in the case of proceedings started pursuant to Article 67(3), may authorise the concentration of undertakings or may extend the one-year time limit pursuant to Article 25,

c) may establish pursuant to Article 16/A that the benefit of the application of the group exemption does not apply to the agreement,

d) may establish that the conduct is unlawful,

e) may order a situation violating this Act to be eliminated,

f) may prohibit the continuation of the conduct which violates the provisions of this Act,

g) where it finds that there is an infringement of the law, it may impose obligations including in particular the obligation of a contract to be concluded where an unjustified refusal to create or maintain business relations appropriate for the type of the transaction (point c) of Article 21) has been found,

h)<sup>233</sup> may order a corrective statement to be published in respect of unlawful information,

i) may establish that the conduct is not unlawful,

j) may withdraw or amend its earlier decision.

**decision**

<sup>231</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>232</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>233</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

(2)<sup>234</sup> Pre- or post-conditions and obligations may be attached to the decisions granting authorisation for concentrations.

(3)<sup>235</sup>

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<sup>234</sup> Amended by Act LXVIII of 2005; entering into force as of 14 July 2005.

<sup>235</sup> Repealed by Act LXVIII of 2005; no longer in force as of 14 July 2005.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

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Article 78

fine

(1)<sup>236</sup> The proceeding competition council may impose a fine on persons violating the provisions of this Act. The maximum fine shall not exceed ten per cent of the net turnover, achieved in the business year preceding that in which the decision establishing the violation is reached, of the undertaking or, where the undertaking is member of a group of undertakings, which is identified in the decision, of that group of undertakings. The maximum fine imposed on social organisations of undertakings, public corporations, associations or other similar organisations shall not exceed ten per cent of the total of the net turnover in the preceding business year of undertakings, which are members of them.

(2)<sup>237</sup> Where no information which could be considered as authentic on the net turnover, achieved in the business year preceding that in which the decision establishing the violation is reached, of the undertakings or the group of undertakings mentioned in Section (1) is available, the last business year with an authentic annual closing shall be taken into consideration when determining the maximum fine.

(3)<sup>238</sup> The amount of the fine shall be established with all the circumstances of the case taken into account, in particular the gravity of the violation, the duration of the unlawful situation, the benefit gained by the infringement, the market positions of the parties violating the law, the imputability of the conduct, the effective cooperation by the undertaking during the proceeding and the repeated display of unlawful conduct. The gravity of the violation shall be established, in particular, on the basis of the threat to economic competition and the range and extent of harm to the interests of consumers and trading parties.

(4)<sup>239</sup> Fines imposed on broadcasters shall be paid into the Broadcasting Fund.

(5)<sup>240</sup> In cases where a member of a group of undertakings, which has committed the infringement, fails to voluntarily pay the fine and the enforcement results in failure, the competition council proceeding in the case shall by a separate order jointly and severally oblige the members of the group of undertakings concerned which have been identified in the decision to pay the fine or the part thereof which was not collected.

(6)<sup>241</sup> In cases where a social organisation of undertakings, public corporation, association or other similar organisation fails to voluntarily pay the fine and the enforcement results in failure, the competition council proceeding in the case shall by a separate order jointly and severally oblige the undertakings which participated in reaching the unlawful decision and are identified as such in the decision, to pay the fine.

leniency

(7)<sup>242</sup> A separate legal remedy pursuant to Article 82(3) may be sought against an order made pursuant to Section (5) or (6).

(8)<sup>243</sup>

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<sup>236</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>237</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>238</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>239</sup> Its number was modified by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>240</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>241</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>242</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>243</sup> Repealed by Act XIV of 2009; no longer in force as of 1 June 2009.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

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Article 78/A<sup>244</sup>

(1) The proceeding competition council shall grant immunity from, or reduce, the fine imposed on undertakings that disclose to the Hungarian Competition Authority, in a manner specified by this Act, agreements or concerted practices between competitors which infringe Article 11 or infringe Article 81 of the EC Treaty and which are aimed directly or indirectly at fixing purchase or selling prices, sharing of markets including bid-rigging or at the allocation of production or sales quotas (hereinafter for the purposes of Articles 78/A and 78/B: infringement). For the purposes of Articles 78/A and 78/B also organisations, the decision of which is to be regarded as an agreement under Article 11, shall be regarded as undertakings.

(2) Immunity from any fine shall be granted to the undertaking, which is the first to submit an application for immunity and submit evidence

a) which enables the Hungarian Competition Authority to obtain in advance a judicial authorisation to carry out investigative measures specified by Article 65/A in connection with the infringement, provided that the Hungarian Competition Authority did not, at the time of the application, already have sufficient information constituting the ground for the judicial authorisation of investigative measures specified by Article 65/A or had not already carried out such investigative measures; or

b) which enables the Hungarian Competition Authority to prove the infringement, provided that it did not, at the time of the application, already have sufficient evidence to prove the infringement and none of the undertakings meets the condition set out in point a).

(3) Fines may be reduced on application if the undertakings do not qualify for immunity from fine but provide the Hungarian Competition Authority with evidence of the infringement, which constitutes significant added value relative to the evidence already available to the Hungarian Competition Authority at the time when the application was submitted. Applications may be submitted, at the latest, on that of the day before the date of service of the preliminary position or the day before the starting date for the access to the files of any of the parties, which of the two is the earlier.

(4) The level of the reduction in the amount of the fine may be as follows. For the:

a) first undertaking to meet the conditions set out in Section (3): a reduction of 30-50%;

b) second undertaking to do the same: a reduction of 20-30%;

c) third or subsequent undertakings to do the same: a reduction of up to 20%.

(5) If the undertaking provides evidence relating to facts in connection with the infringement, which are unknown to the GVH and which have a direct importance with respect to the circumstances to be taken into account pursuant to Article 78(3) when the amount of the fine is determined, the proceeding competition council shall not take such aggravating evidence into account when setting the fine to be imposed on the undertaking which provided this evidence.

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<sup>244</sup>

Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in those cases where the applications were submitted following the day of its entering into force.

(6) In order to qualify for any immunity from, or a reduction in the amount of, the fine or enjoy the benefit of the fine being set in accordance with Section (5), the undertaking must satisfy the following conditions in addition to those set out above:

*a)* It ends its involvement in the infringement immediately following its application or the providing of evidence pursuant to Section (5), except for what would, in the Hungarian Competition Authority's view announced by order to the undertaking, be reasonably necessary effectively to carry out investigative measures specified by Article 65/A; and

*b)* It cooperates genuinely, fully and on a continuous basis with the Hungarian Competition Authority until the conclusion of the competition supervision proceeding.

(7) An undertaking, which took steps to coerce other undertakings to participate in the infringement, shall not be eligible for immunity from fines.

(8) Neither more than one undertaking jointly nor one undertaking on behalf of more than one undertaking are allowed to apply for immunity from, or a reduction in the amount of, the fine or provide evidence pursuant to Section (5).

Article 78/B<sup>245</sup>

(1) The Hungarian Competition Authority may consider applications for immunity from any fine as applications being submitted, even if the evidence required by the Act was not submitted at the time of the application (non-final applications). In such cases a time limit shall be set for the completion of the application.

(2) In cases where the European Commission is particularly well placed to conduct a proceeding in accordance with its Notice on Cooperation within the Network of Competition Authorities, the undertaking may file a provisional application with the Hungarian Competition Authority where the undertaking considers the Hungarian Competition Authority might be well placed to proceed in the case under the Notice. The Hungarian Competition Authority may request information relating to the provisional application. Should the Hungarian Competition Authority initiate a competition supervision proceeding in the case, it shall request the undertaking to provide the evidence qualifying it for immunity from the fine. If the undertaking submits required evidence, its application shall be deemed, in assessing eligibility for immunity from fine, to have been submitted on the date when the provisional application was made.

(3) Applications shall be assessed in their time sequence. Applications for immunity from any fine may be withdrawn before they are assessed. The proceeding competition council may, *ex officio*, assess applications for immunity from any fine as applications for a reduction in the amount of the fine where they fail to meet the conditions for granting immunity from any fine, are nevertheless not withdrawn by the undertaking and may constitute the ground for a reduction in the amount of the fine,

(4) Preparatory work for the proceeding competition council's resolution making on granting immunity from, or a reduction in the amount of, the fine shall be performed by the investigator. In the course of this work, he shall examine, and give his opinion about, the application and submit to the proceeding competition council the information available to the Hungarian Competition Authority relating to the infringement.

<sup>245</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in those cases where the applications were submitted following the day of its entering into force.

(5) Where the application of the undertaking meets the conditions set out in Article 78/A(2), the proceeding competition council shall, by its order, establish this circumstance to enable immunity from any fine to be granted under point *a)* or *b)* of Article 78/A(2) at the time of the decision making, provided that the undertaking will meet, at that time, the conditions set out in Sections (6) and (7) of Article 78/A. The proceeding competition council may only take a view when making its decision, which is different from that taken in its order if the undertaking does not meet the conditions set out in Article 78/A(6) or is precluded from applying for immunity under Article 78/A(7). The proceeding competition council shall reject unfounded applications by its order.

(6) Where the application of the undertaking meets the conditions set out in Article 78/A(3), the proceeding competition council shall, by its order, establish this circumstance to enable a reduction in the amount of the fine to be granted under Sections (3) and (4) of Article 78/A at the time of the decision making, provided that the undertaking will meet, at that time, the conditions set out in Section (6) of Article 78/A. The proceeding competition council may only take a view when making its decision, which is different from that taken in its order if the undertaking does not meet the conditions set out in Article 78/A(6). The proceeding competition council shall reject unfounded applications by its order.

(7) The proceeding competition council shall immediately adopt its orders made under Sections (5) and (6), taking only the time necessary for carrying out its assessment. The proceeding competition council may hear the applicant. The rules of the competition supervision proceeding shall apply *mutatis mutandis* to the resolution of the proceeding competition council, with the exception that only the undertaking submitting the application shall be informed of the orders adopted under Sections (5) and (6). No separate legal remedy may be sought against these orders.

(8) Before an order under Section (5) is made, the Hungarian Competition Authority may use the application for immunity and the documents attached to it exclusively to the assessing of the application or the applying for a judicial authorisation pursuant to Article 65/A; only the investigator appointed to deal with the case, the proceeding competition council and the court may have access to them. Where the application is rejected or withdrawn, the Hungarian Competition Authority shall return, upon request of the undertaking, the application and the documents attached to it, together with the copies possibly prepared of them, to the undertaking submitting the application, concurrently with the informing it of the order rejecting the application.

(9) The format, content in detail and way of submission of applications specified by Articles 78/A and 78/B shall be regulated by an application form issued by the Hungarian Competition Authority.

#### Article 79<sup>246</sup>

The amount of the fine for failure to submit an application for the authorisation defined by Article 24 may not exceed HUF two hundred thousand per day.

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<sup>246</sup> Amended by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of mergers and acquisitions realised henceforward.

## informant reward

Article 79/A<sup>247</sup>

(1) A natural person who has disclosed to the Hungarian Competition Authority written evidence qualifying as indispensable for the establishment of an infringement committed by competitors by means of agreements or concerted practices which infringe Article 11 or Article 81 of the EC Treaty and which directly or indirectly aimed at fixing purchase or selling prices, sharing of markets - including bid rigging - or at the allocation of production or sales quotas, shall be entitled to obtain informant reward.

(2) A piece of information based on which the court grants authorisation to investigative measures specified by Article 65/A in the course of which the Hungarian Competition Authority takes possession of evidence specified by Section (1) qualifies as indispensable. The evidence provided qualifies as indispensable even if it can be substituted by another evidence the Hungarian Competition Authority has acquired posteriorly.

(3) The amount of the informant reward determined in this article is one percent of the fine imposed by the Competition Council proceeding in the case, but maximum HUF fifty million. In case more than one different natural person provide indispensable evidence, each of them shall be entitled to informant reward. One person is entitled to receive informant reward only one time.

(4) The legal representative of the undertaking on behalf of which an application for immunity from fines or reduction of fines specified by Article 78/A has been submitted is not entitled to informant reward.

(5) No informant reward shall be granted in cases where the evidence has been obtained as a result of a crime or an offence. In cases where the criminal proceeding or offence proceeding has been initiated before the payment of the informant reward, the disbursement of this fee shall be suspended. If the establishment of a crime or an offence becomes final after the disbursement of the informant reward, this fee shall be reimbursed to the Hungarian Competition Authority.

(6) Informant reward shall not be paid to each of more than one person if it can be established, based on the data available, that the evidences concerned originate from one single source and they have been divided only with the purpose of obtaining multiple informant rewards. In such a case the simple amount of the informant reward shall be equally divided among those who are entitled to it.

(7) The reimbursement of the informant reward shall not be required in cases where the court has decreased or overruled the amount of the fine imposed, or changed the decision of the Competition Council proceeding in the case thereby ceasing the indispensability of the evidence provided, except for all the cases where the decision has been changed due to the illegitimacy of the evidence provided by the informant as a consequence of his or her behaviour.

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<sup>247</sup> Established by Act CLXIII of 2009; entering into force as of 1 April 2010.

Article 79/B<sup>248</sup>

(1) The Hungarian Competition Authority shall ensure that those persons who believe to possess documents specified by Article 79/A (1) could receive information on the presumed qualification of the documents without revealing their personal identity. The inquiring person shall be informed that the preliminary qualification does not bind the Hungarian Competition Authority and he or she shall also be informed of the rules applicable to the informant reward.

(2) The person providing the documents supposedly fulfilling the conditions specified by Article 79/A (1) shall be informed of the rules applicable to the reward specified by Article 79/A. The person providing the documents shall inform the Hungarian Competition Authority about his or her claim to the informant reward within five days at the latest from the day of the receipt of the information provided by the Hungarian Competition Authority. The person claiming the informant reward shall be informed that law enables that he or she can be heard as a witness and that he or she may ask for confidential management of his or her personal identification data. This request shall not be refused, however, the requesting person shall be forewarned that the confidential handling of his or her personal identification data may have an effect on the probative force of the documents provided.

(3) If, according to the investigator or the Competition Council proceeding in the case, the document provided in the course of the competition supervision proceeding is incapable of proving the infringement specified by Article 79/A (1), the person providing the document shall be informed of this fact within the framework of a hearing, and upon his or her request a resolution shall be issued on the refusal. The memorandum of the hearing and the separate resolution shall not be accessible.

(4) The Competition Council proceeding in the case shall make separate resolutions on the payment of the informant rewards for each person submitting a request specified by Section (2) within thirty days at the latest after its decision closing the proceeding. The person(s) concerned may seek separate legal remedy (Article 82) against this resolution.

(5) The informant reward is due within thirty days after the resolution specified by Section (4) becomes final. Disbursement shall be effected by debiting the account of incoming fines of the Hungarian Competition Authority.

(6) In case the informant reward must be reimbursed, it shall be initiated based on a resolution made by the Competition Council proceeding in the case within thirty days from the date when the decision giving ground for the reimbursement becomes final. The person concerned may seek separate legal remedy (Article 82) against this resolution. The informant reward to be reimbursed qualifies as public debt to be exacted like taxes.

*Publication of the resolution*<sup>249</sup>Article 80<sup>250</sup>**publication of the resolution**

The proceeding competition council shall publish its decisions and it may publish its orders. This shall not be prevented by applications initiating a court review of the resolutions; however, the fact of a court review having been initiated shall be indicated when the publication is made. If the order directing an investigation to be opened has been published, the resolution concluding the proceeding shall also be published.

<sup>248</sup> Established by Act CLXIII of 2009; entering into force as of 1 April 2010.

Chapter XII<sup>251</sup>Legal Remedy in the Competition Supervision Proceeding of the Hungarian  
Competition Authority*Objections to the investigation*Article 81<sup>252</sup>**objections to the  
investigation**

A party may file an objection, in writing, to any irregularities in the investigation procedures, within three days of the irregular measure alleged. The investigator or the competition council proceeding in the case shall give reasons for its course to ignore the objection in the report or its resolution concluding the proceeding respectively.

*Legal remedy against orders made in the course of the proceeding*<sup>253</sup>

## Article 82

**legal remedy against  
orders**

(1)<sup>254</sup> Separate legal remedies may be sought against the orders made by the investigator or the proceeding competition council only in cases where this is authorised by this Act. The submission of an application for legal remedy does not have a suspensive effect on the implementation of what has been required by the contested orders or on the continuation of the proceeding, unless otherwise provided by this Act. Application for a legal remedy may be submitted by the party, the person in respect of whom the order contains provisions and the person required under this Act to be informed of the order, within five working days of the conveyance of the order.

(2)<sup>255</sup> Application for a legal remedy submitted against an order made by the investigator shall be assessed by the competition council proceeding in the case apart from its trial. Where the application for a legal remedy is submitted late, or is submitted by a person other than that entitled to submit it, or where no claim for a legal remedy may be filed under this Act, the proceeding competition council shall refuse the application without examining the substance of it. In assessing the substance of the application, the competition council proceeding in the case may make the following resolutions: it may affirm or amend or annul the order of the investigator, furthermore, at the same time with the annulment, it may order the investigator repeatedly to proceed. Of the orders assessing an application for legal remedy of the competition council proceeding in the case, further legal remedy may be sought only against those which were made in respect of applications for legal remedy against an order pursuant to Article 60, 61, 62(7), 68(4) or 71/A of the investigator.

<sup>249</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>250</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>251</sup> Its number was modified by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>252</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>253</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>254</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>255</sup> Amended by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in proceedings ongoing at the time of its entering into force.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(3) <sup>256</sup> An application for a separate legal remedy against an order made by the competition council proceeding in the case shall be considered by the Budapest Metropolitan Court pursuant to the rules applying for the judicial review of orders made in the course of public administrative proceedings.

(4) <sup>257</sup> In the competition supervision proceeding no request for reopening the case may be made.

*Administrative lawsuits*

Article 83

(1) <sup>258</sup> In cases where an action is brought in order to get the decision reached in competition supervision proceeding reviewed by the court, the statement of claim shall be, within thirty days of the conveyance of the decision, submitted to the competition council or taken to the post as registered mail.

(2) <sup>259</sup> The competition council proceeding in the case shall refer the statement of claim, along with the documents of the case and its observations about the contents of the statement of claim, to the court within thirty days of receipt of the statement of claim. In cases where the statement of claim contains an application for a stay of enforcement, the statement of claim and the documents of the case shall be referred to the court within fifteen days of receipt of the statement of claim.

(3) <sup>260</sup> Upon an authorisation given by the Chair of the Competition Council members of the proceeding competition council may also act as representatives of the Hungarian Competition Authority in administrative lawsuits.

(4) The court may overrule the decision of the competition council.

(5) Where the decision made by the competition council proceeding in the case violated a legal norm as a result of which the party has a claim for the reimbursement of the fine, the refunded amount is subject to interest corresponding to twice the central bank's prime rate in the period in question.

Article 84 <sup>261</sup>

In court proceedings started on the basis of a claim against a decision of the competition council, Chapter XX of Act III of 1952 on the Code of Civil Procedures shall apply, with exceptions defined by Article 83 of this Act.

**administrative  
lawsuits**

<sup>256</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>257</sup> Established by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>258</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>259</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>260</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>261</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

### Chapter XIII<sup>262</sup>

#### Litigation initiated by the Hungarian Competition Authority

##### Article 85

**actions against  
administrative  
decisions**

(1)<sup>263</sup> Where in the course of its operation the Hungarian Competition Authority finds that any resolution of an authority violates the freedom of competition, it shall request the authority to amend or withdraw the resolution in question. The limitations contained in Article 114(2) PAPA shall not apply to the amendment or withdrawal; furthermore, benefits resulting from the restriction of the freedom of competition shall not qualify, for the purpose of Article 114(3) PAPA, as rights acquired and exercised in good faith.

**time-bar**

(2)<sup>264</sup> Where such an authority fails to comply within twenty-two working days with the request defined by the above Section (1), the Hungarian Competition Authority may seek a court review of the resolution of such an authority violating the freedom of economic competition, except in cases where the law excludes a court review of such resolutions of authorities. No such claim may be lodged after one year has elapsed from the entry into force of such a resolution, and no application for justification may be submitted where the time limit is missed.

**public administrative  
resolutions violating  
the freedom of  
competition**

(3)<sup>265</sup> The county court (or the Budapest Metropolitan Court) shall have the power to hear and decide such lawsuits. The provisions applying for administrative lawsuits laid down in the Act on the Code of Civil Procedures shall apply mutandis mutandis to the proceedings of the court.

(4)<sup>266</sup> The Hungarian Competition Authority may request the public administrative body acting in the first instance, which made the public administrative resolution violating the freedom of competition and the body acting in the second instance to provide information about the public administrative resolutions made in proceedings the subject of which was similar to that of the proceeding relating to the contested resolution. Based on the information provided, the Hungarian Competition Authority may request the resolutions specified therein to be sent to it.

### Chapter XIV<sup>267</sup>

#### The Competition Supervision Proceeding of the Court

##### Article 86

**jurisdiction**

(1) The court shall have the power to hear and decide cases conducted against violations of the provisions contained in Articles 2 to 7.

<sup>262</sup> Its number was modified by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>263</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>264</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>265</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>266</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009.

<sup>267</sup> Its number was modified by Act LXVIII of 2005; entering into force as of 1 November 2005.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**resolutions of the courts**

(2) In the claim, the interested party may demand:

- a) the establishment of the violation,
- b) termination of the violation and the prohibition of continued violation by the infringer,
- c) that the infringer make amends - through making an announcement or in some other appropriate manner - and, if necessary, that sufficient publicity be given to such an announcement by the infringer or at its cost,
- d) termination of the infringing state of affairs, restitution of the situation preceding the infringement, and depriving the goods produced or distributed in an infringing manner of their infringing features or, where this is not possible, destruction of such goods, as well as the destruction of any special facilities used for the production of such goods,
- e) damages subject to the provisions of the civil law, and
- f)<sup>268</sup>
- g)<sup>269</sup> that the infringer supply information about the persons who participated in the production and distribution of the goods concerned by the infringement and about the business relations created for the dissemination of such goods.

(3)<sup>270</sup> In lawsuits initiated for the infringement of the provisions laid down in Article 4 or 6, the interested party may demand in the claim, in addition to its demands specified by Section (2),

- a) the restitution of the enrichment achieved through the infringement,
- b) implements and materials exclusively or principally used for committing, and goods concerned by, the infringement to be seized, given to certain persons, recalled from the channels of commerce, definitively recalled from those channels or destroyed,
- c) furthermore, the decision to be made public at the expense of the infringer. The term making public means in particular publication in a national daily or through the Internet.

**Article 87**

The scope of the court proceedings also includes the imposition of fines as defined by Article 78.

**Article 88<sup>271</sup>**

(1) Action in court may be started with reference to practices defined in Articles 2 to 7 within six months of acquiring knowledge thereof.

**time-bar**

(2) Where the contested conduct is performed continuously, the time-bar starts to run from the date of termination of the conduct. Where the contested conduct is realised by failure to eliminate a state of affairs or a situation, the time-bars shall not start to run as long as the state of affairs (situation) continues to exist.

<sup>268</sup> Repealed by Act LXVIII of 2005; no longer in force as of 1 November 2005.

<sup>269</sup> Amended by Act CXXXVIII of 2000; entering into force as of 1 February 2001.

<sup>270</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of infringements committed henceforward.

<sup>271</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**jurisdiction**

(3) No action may be started after the end of five years of the display of such conduct.

(4) In litigation started pursuant to this Chapter the county court (or the Budapest Metropolitan Court) shall have jurisdiction.

(5)<sup>272</sup> In lawsuits initiated for the infringement of the provisions laid down in Article 4 or 6, the interested party may, in addition to civil law claims, request the court to order, under the conditions applicable to provisional measures, precautionary measures to be taken in accordance with the provisions laid down in the Act on Judicial Enforcement, if it is able to show that any later attempt to satisfy its demand for damages or the restitution of the enrichment achieved through the infringement is endangered; furthermore, it may request the infringer to be obliged to disclose and present its banking, financial and commercial data and documents for the purpose of the ordering of the precautionary measures mentioned above. The interested party, if it gives its consent to the continuation of acts which can be suspected to infringe the provisions laid down in Article 4 or 6, also may request, in place of demanding the termination of the infringement, that the court obliges the suspected infringer to provide guarantees. The court may order the providing of guarantees even if this has not been requested by the interested party provided that the interested party has submitted a request demanding the termination of the infringement and the court refuses that request.

(6)<sup>273</sup> Where a party in lawsuits initiated for the infringement of the provisions laid down in Article 4 or 6 has already substantiated its factual statements to a reasonable extent, upon the request of the party providing evidence, the court may oblige the opposing party:

a) to present documents and other physical evidence in its possession and give access to them in the course of an inspection;

b) to disclose banking, financial and commercial data and present documents in its possession containing such data.

(7)<sup>274</sup> A preliminary assessment of evidence may be conducted before the initiation of a lawsuit if the interested party has substantiated to a reasonable extent the fact of an infringement of Article 4 or 6 being, or the risk that it may be, committed. If the lawsuit has not yet been initiated, the preliminary assessment of evidence shall be requested from the Budapest Metropolitan Court. Decisions made on requests relating to the ordering of the preliminary assessment of evidence may be appealed.

**lawsuits against the  
infringement of  
Article 4 or 6**

(8)<sup>275</sup> In cases in which an infringement of the provisions laid down in Article 4 or 6 is suspected, the ordering of an interim measure may already be requested before the statement of claim is submitted; such requests shall be considered by the county court (the Budapest Metropolitan Court) in non-litigious procedures. Non-litigious procedures relating to interim measures shall be governed by the provisions of this Act and, mutatis mutandis, the general rules laid down by Act III of 1952 on the Code of Civil Procedures, with the exceptions stemming from the special characteristics of non-litigious procedures. The procedural fee of the lawsuit to be paid by the applicants having initiated the lawsuit, in accordance with Section (10), for the infringement of the provisions laid down in Article 4 or 6 shall be additional to the fee paid for the non-litigious procedure.

(9)<sup>276</sup> Requests relating to the ordering of an interim measure shall be considered immediately by the court, but within fifteen days of the submission of the request, at the latest. Appeals against the decision relating to the ordering of an interim measure shall be considered immediately by the appeal court, but within fifteen days of the submission of the appeal, at the latest.

(10)<sup>277</sup> The court shall, upon request of the opposing party, revoke its decision relating to the ordering of an interim measure, requested before the statement of claim was submitted, including any of the measures specified in Section (5), or to the ordering of the preliminary assessment of evidence, if the injured party does not initiate a lawsuit for the infringement of the provisions laid down in Article 4 or 6, relating to the claim that it have enforced by the interim measure or wishes to support by the preliminary assessment of evidence, within fifteen days of the conveyance of the decision. Requests relating to the repealing of decisions ordering interim measures or the preliminary assessment of evidence shall be considered immediately by the court, but within fifteen days of the submission of the request, at the latest.

(11)<sup>278</sup> Where any delay would cause irreparable harm, the case shall qualify as a case of extreme urgency and therefore, interim measures including the measures specified in Section (5) may be ordered without the opposing party having been heard. Where any delay would cause irreparable harm or where there is a demonstrable risk of evidence being destroyed, the case shall qualify as a case of urgency and therefore, the preliminary assessment of evidence may be ordered without the opposing party having been heard. Opposing parties not heard when such decisions have been adopted shall be informed of those decisions when they are carried out. After having been informed of the decision, the opposing party may request to be heard or the decision ordering an interim measure or the preliminary assessment of evidence to be modified or revoked.

<sup>272</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of infringements committed henceforward.

<sup>273</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of infringements committed henceforward.

<sup>274</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of infringements committed henceforward.

<sup>275</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of infringements committed henceforward.

<sup>276</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of infringements committed henceforward.

<sup>277</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of infringements committed henceforward.

<sup>278</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of infringements committed henceforward.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(12)<sup>279</sup> The Court may make, with the exception of the situations mentioned in the second and third sentences of Section (5), the ordering of an interim measure or of the preliminary assessment of evidence subjected to the providing of guarantees. If the party, who is entitled to seek satisfaction from the sum of the guarantee given in accordance with this Section or Section (5), fails to enforce his claim within three months of the entry into force of the decision annulling the order relating to the preliminary assessment of evidence or of the judgement or other decision concluding the lawsuit, the person providing the guarantee may request the court to release the guarantee.

Article 88/A<sup>280</sup>

The power of the Hungarian Competition Authority to proceed, determined by Article 45 of this Act and used to safeguard, pursuant to Article 70(1), the public interest, shall not prevent civil law claims, arising out of the infringement of the provisions laid down in Chapters III to V of this Act and mentioned in Articles 11(3) and 93, from being enforced directly in court.

Article 88/B<sup>281</sup>

(1)<sup>282</sup> For lawsuits to be assessed under the provisions laid down in Chapters III to V of this Act, the provisions of Act III of 1952 on the Code of Civil Procedures shall be applied with the exceptions defined in this Chapter.

**private enforcement**

(2) The court shall notify, without delay, the Hungarian Competition Authority of lawsuits before it, which are to be assessed under the provisions laid down in Chapters III to V of this Act.

**amicus curiae**

(3) The Hungarian Competition Authority may submit, until the closure of the trial, written observations on issues relating to the application of the provisions laid down in Chapters III to V of this Act, furthermore it may also submit oral observations at the trial. If the Hungarian Competition Authority intends to exercise its right to make oral observations, this must be notified to the court. The information provided by the observation of the Hungarian Competition Authority may be used in evidence in the lawsuit.

(4) At the request of the court, the Hungarian Competition Authority shall inform the court, within sixty days of receipt of the order of the court requesting this information, of its opinion on points concerning the application of the provisions laid down in Chapters III to V of this Act.

(5) At the request of the Hungarian Competition Authority, the court shall transmit to it the documents of the lawsuit, which are necessary for the preparation of its observations or for the formation of its opinion on points of law referred to in Section (3) and Section (4) respectively. The costs of making copies of the documents shall be advanced by the court. At the request of the Hungarian Competition Authority, the court may give its consent to the Hungarian Competition Authority having access to the documents in place of transmitting them to it.

<sup>279</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of infringements committed henceforward.

<sup>280</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>281</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>282</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

(6) Where at any phase of the lawsuit, the Hungarian Competition Authority notifies the court hearing the lawsuit of a competition supervision proceeding, which it has initiated in the case concerned, the court shall stay its proceeding until the expiry of the time limit for filing an action in the court against the decision reached in the competition supervision proceeding or in cases where an action is filed against that decision, until the date on which the decision of the review court becomes legally binding. The statement on the existence or absence of an infringement, made in the decision of the Hungarian Competition Authority against which no action has been filed or in the decision of the review court, shall be binding on the court hearing the lawsuit.

(7) In such lawsuits, the burden of proving the facts evidencing an infringement of the provisions laid down in Chapters III to V of this Act shall rest on the party alleging the infringement; the burden of proving that the conditions for claiming the benefit of the application of a group exemption pursuant to Article 16 of this Act or the conditions set by Article 17 of this Act are fulfilled, shall rest on the party alleging this.

(8) The court may also decide pursuant to Article 13(4) or 16/A(2) if the party referring to these provisions can show that the conditions set by this Act have been met.

Article 88/C<sup>283</sup>

**price increase  
presumption**

In the course of civil proceedings for any claim conducted against a party to a restrictive agreement between competitors aimed at directly or indirectly fixing selling prices, sharing markets or setting production or sales quotas that infringes Article 11 of this Act or Article 81 of the EC Treaty, when proving the extent of the influence that the infringement exercised on the price applied by the infringer, it shall be presumed, unless the opposite is proved, that the infringement influenced the price to an extent of ten per cent.

Article 88/D<sup>284</sup>

Any person to which immunity from fine was granted under Article 78/A may refuse to pay damages for the harm caused by his conduct infringing Article 11 of this Act or Article 81 of the EC Treaty until the claim can be recovered from any other person responsible for causing harm by the same infringement. This rule is without prejudice to the possibility of bringing a joint action against persons causing the harm. Lawsuits initiated to enforce claims against persons responsible for harm-causing to which immunity from fine was granted shall be stayed until the date on which the judgement made in the administrative lawsuit initiated upon request for a review of the decision of the Hungarian Competition Authority establishing an infringement becomes legally binding.

<sup>283</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in civil law cases initiated henceforward.

<sup>284</sup> Established by Act XIV of 2009; entering into force as of 1 June 2009. It shall be applied in the case of harmful practices made following its entering into force.

Chapter XV<sup>285</sup>Enforcement of the Resolutions of the Hungarian Competition Authority<sup>286</sup>Article 89<sup>287</sup>

## enforcement

(1)<sup>288</sup> Resolutions by orders of the investigator made in the course of competition supervision proceedings are final if no claim for a legal remedy has been filed against them within the time limit or a legal remedy has been waived or is precluded. Resolutions of the proceeding competition council become final on the date of their conveyance.

(2) Resolutions, which are final, may be enforced if the time limit or deadline for implementation set by them expired without due compliance. Resolutions, which are not final, may be enforced if a claim for remedy has no suspensive effect on their enforcement.

(3) The competition council proceeding in the case shall ex officio direct, by a separate order, its resolutions made in the course of the competition supervision proceeding to be implemented, without delay following the expiry, without due compliance, of the time limit set for the implementation.

## Article 90

## enforcement fine

(1)<sup>289</sup> Where the competition council proceeding in the case, by its resolution, obliged the party to perform an act or display a conduct specified in the resolution, the competition council proceeding in the case, concurrently with the ordering of the enforcement, shall impose an enforcement fine. The enforcement fine shall not exceed HUF fifty thousand per day.

(2)<sup>290</sup> The competition council proceeding in the case may set on one occasion, upon a reasoned application of the obligee, an extended time limit for voluntary compliance, rising at the same time the daily rate of the enforcement fine. The increased fine shall not exceed HUF hundred thousand per day.

(3)<sup>291</sup> The obligee shall pay the enforcement fine for the period between the ordering of the enforcement, or the increased enforcement fine for the period between the expiry of the extended time limit for voluntary compliance, and the day of confirmation of performance of what has been ordered by the decision.

(4) The enforcement fine may be imposed at the same time on both an undertaking and its manager.

## fines not paid

(5)<sup>292</sup> Fines imposed in competition supervision proceedings and not paid within the time limit set for the compliance qualify as public debt to be exacted like taxes and to be collected officially upon request of the Office of Economic Competition by the competent tax authority.

<sup>285</sup> Its number was modified by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>286</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>287</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>288</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>289</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>290</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>291</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>292</sup> Amended by Act CIX of 2006; entering into force as of 1 January 2007.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

<b>enforcement</b>	<p>Article 90/A<sup>293</sup></p> <p>The enforcement of the resolutions ordering the performance of an act or the display of a conduct specified in the resolution shall be carried out by the Hungarian Competition Authority.</p>
<b>objection to the enforcement</b>	<p>Article 91</p> <p>(1) A person whose right or lawful interest is violated by the ordering of the enforcement or by the imposition of the enforcement fine shall be entitled to file an objection to the enforcement with the Chair of the Competition Council within three days of acquiring knowledge of the violation of such interests.</p> <p>(2)<sup>294</sup> The Chair of the Competition Council shall decide on the objection to the enforcement within <u>five working days</u> of receipt. No legal remedy is available against such an order.</p>

## Chapter XVI<sup>295</sup>

### Procedure for the Application of European Community Competition Rules

#### *General rules*

<b>general procedural rules</b>	<p>Article 91/A</p> <p>(1) In any proceedings for the application of Articles 81 and 82 of the EC Treaty the provisions of this Act shall be applied with the exceptions defined in this Chapter and by Regulation (EC) No 1/2003.</p> <p>(2)<sup>296</sup> In carrying out the control of concentrations between undertakings which are covered by European Community law the provisions of this Act shall apply when this is provided by Regulation (EC) No 139/2004. In such cases, of the provisions of this Chapter, those of Articles 91/E and 91/G are applicable.</p>
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#### *The proceeding of the Hungarian Competition Authority*

	<p>Article 91/B</p> <p>In applying Articles 81 and 82 of the EC Treaty the Hungarian Competition Authority shall cooperate, in a manner specified by Regulation (EC) No 1/2003, with the European Commission and the competition authorities of the member states of the European Union.</p>
	<p>Article 91/C<sup>297</sup></p> <p>Before scheduling the trial the proceeding competition council shall inform the Commission and in so far this is appropriate the competition authority of the member state concerned of its preliminary position (Article 73). The trial may not be held earlier than thirty days after the European Commission was informed. In such cases the time limit for <u>settlement</u> shall be extended by <u>twenty-two working days</u>.</p>

<sup>293</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>294</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>295</sup> Its number was modified by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>296</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

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**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

Article 91/D<sup>298</sup>

If evidence originating from the European Commission or from a competition authority of another member state is used in the course of the competition supervision proceeding, the proceeding competition council shall substantiate in its reasoning to the resolution – by showing that the conditions set by Regulation (EC) No 1/2003 have been met – the applicability of such evidence.

## Article 91/E

(1) In settling complaints the investigator shall refuse to take action to open an investigation, furthermore, the investigator and the proceeding competition council shall terminate the proceeding started ex officio if the European Commission has initiated its own proceeding in the case.

(2) In settling complaints taking action to open an investigation may be refused if the competition authority of another member state has initiated its own proceeding in the case.

(3) The investigator and the proceeding competition council may stay or terminate the proceeding started ex officio if the competition authority of another member state has initiated its own proceeding in the case.

(4)<sup>299</sup> No separate legal remedy is available against an order made pursuant to Sections (1) to (3).

(5)<sup>300</sup> When the Hungarian Competition Authority makes a request to the Commission pursuant to Article 22(1) of Regulation (EC) No 139/2004, the investigator shall stay the proceeding of the Authority upon submission of the request.

(6)<sup>301</sup> The investigator shall by order terminate the proceeding, if the Commission decides, upon request of the Hungarian Competition Authority, to examine the concentration. If the Commission decides not to examine the concentration, the investigator shall continue the proceeding.

(7)<sup>302</sup> If in connection with an application for authorisation submitted to the Hungarian Competition Authority, the Commission, in accordance with the provisions of Article 22(2) of Regulation (EC) No 139/2004, informs the Hungarian Competition Authority of a request pursuant to Article 22(1) of Regulation (EC) No 139/2004 it has received from another member state, the investigator or the competition council proceeding in the case shall stay the proceeding.

(8)<sup>303</sup> As soon as the Hungarian Competition Authority has informed the Commission that it does not wish to join the request mentioned in Section (7), he or it shall continue the proceeding.

**rules for the  
procedure of the  
Hungarian  
Competition  
Authority**

<sup>297</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>298</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>299</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>300</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>301</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>302</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>303</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

(9)<sup>304</sup> The investigator or the competition council proceeding in the case shall by order terminate the proceeding, in so far the Hungarian Competition Authority has joined the request mentioned in Section (7) and the Commission decides to examine the concentration.

(10)<sup>305</sup> The investigator or the competition council proceeding in the case shall continue the proceeding, in so far the Hungarian Competition Authority has joined the request mentioned in Section (7) but the Commission decides not to examine the concentration.

(11)<sup>306</sup> No separate legal remedy may be sought against orders made according to Sections (5) to (10).

#### Article 91/F<sup>307</sup>

(1) When the execution, in the course of the proceeding of the European Commission, of the investigative measures specified by Section (1) of Article 65/A(1) is necessary and in the case specified by Article 21 of Regulation (EC) No 1/2003, the procedural rules set out in Article 65/A shall apply to the prior authorisation by the court.

(2) The court shall make an authorisation order if the conditions set by Regulation (EC) No 1/2003 or by Regulation (EC) No 139/2004 are satisfied.

(3) The European Commission may submit its request for a prior judicial authorisation of the investigative measure directly to the court or may request the Hungarian Competition Authority to act on behalf of it.

(4) When the performance of the investigative measure necessitates the assistance of the police, the European Commission may request the Hungarian Competition Authority to take the steps, which are necessary to afford it.

#### Article 91/G<sup>308</sup>

When the Hungarian Competition Authority is requested, under Regulation (EC) No 1/2003, by the European Commission or the competition authority of another member state or, under Regulation (EC) No 139/2004, by the European Commission, to carry out investigative measures, the provisions of this Act shall be applied at granting the request except that the procedure shall be closed by an order of the investigator about the transmission of the evidence collected; in such cases no decision (Article 77) may be taken.

#### *Rules for the proceeding of the court*

#### Article 91/H

(1) For lawsuits to be assessed under Articles 81 and 82 of the EC Treaty, the provisions of Act III of 1952 on the Code of Civil Procedures shall be applied with the exceptions defined in this Article and by Regulation (EC) No 1/2003.

(2) The court shall notify, without delay, the European Commission and the Hungarian Competition Authority of lawsuits before it, which are to be assessed under Articles 81 and 82 of the EC Treaty. The Hungarian Competition Authority need not be specially notified in lawsuits to which it is a party.

**rules for the  
procedure of the court**

<sup>304</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>305</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>306</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>307</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>308</sup> Amended by Act LXVIII of 2005; entering into force as of 1 November 2005.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**amicus curiae**

(3) The European Commission and the Hungarian Competition Authority may submit, until the closure of the trial, written observations on issues relating to the application of Articles 81 and 82 of the EC Treaty, furthermore they may also submit oral observations at the trial. If any of them intend to exercise its right to make oral observations, this must be notified to the court. The information provided by the observation of the European Commission and the Hungarian Competition Authority may be used in evidence in the lawsuit.

(4) At the request of the European Commission or the Hungarian Competition Authority, the court shall transmit them the documents of the lawsuit, which are necessary for the preparation of their observation. The costs of making copies of the documents shall be advanced by the court. At the request of the person concerned, the court may give its consent to the person having access to the documents in place of transmitting them to it.

(5) If under Regulation (EC) No 1/2003 the court intends to request information from the European Commission on facts or on points of law, it shall decide about the request by order against which no separate legal remedy may be sought. Data or opinion on points of law given by the European Commission as an answer to the request may be used in evidence in the lawsuit.

(6)<sup>309</sup> In order to fulfil its obligation under Regulation (EC) No 1/2003 relating to the provision of information to the European Commission, the court shall forward its judgment without delay to the minister responsible for justice. The minister responsible for justice shall send the judgement for information to the Hungarian Competition Authority.

## Chapter XVII<sup>310</sup>

### Procedure of the Hungarian Competition Authority for the Application of Regulation (EC) No 2006/2004

#### Article 91/I<sup>311</sup>

In any procedures for the application of Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (hereinafter: Regulation (EC) No 2006/2004) the provisions of this Act shall be applied with the exceptions defined in this Chapter.

#### Article 91/J<sup>312</sup>

(1) Where the Hungarian Competition Authority is requested to supply information pursuant to Article 6 of Regulation (EC) No 2006/2004, a competition supervision proceeding shall be started for this purpose. In such cases the proceeding shall be closed by an order of the investigator about the communication of the information obtained.

<sup>309</sup> Amended by Act CIX of 2006; entering into force as of 1 January 2007.

<sup>310</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

<sup>311</sup> Amended by Act LVI of 2009; entering into force as of 1 October 2009. It shall be applied in proceedings initiated or repeated henceforward.

<sup>312</sup> Established by Act XLVII of 2008; entering into force as of 1 September 2008.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

(2) Where the investigator or the proceeding competition council requests enforcement measures to be taken pursuant to Articles 8 of Regulation (EC) No 2006/2004, he or it, respectively, may decide with reference to this fact, not to order the opening of an investigation relating to an informal complaint or to a complaint or to terminate by order the competition supervision proceeding.

(3) The investigator shall be entitled to establish whether the conditions set out in Article 8(4) of Regulation (EC) No 2006/2004 are fulfilled and, if the said conditions are not fulfilled, to communicate the information mentioned in Article 8(5).

## PART FOUR

### Chapter XVIII<sup>313</sup>

#### Closing Provisions

#### Article 92<sup>314</sup>

##### public interest actions

(1) The Hungarian Competition Authority may file an action to enforce civil law claims of consumers where activities infringing the provisions of this Act, or unlawful practices in relation to which the Hungarian Competition Authority has the power to proceed under UCPA, of an undertaking concerns a large group of individually not known consumers that can be defined based on the circumstances of the infringement, though the identity of the individual consumers is not known.

(2) The Hungarian Competition Authority is empowered to file the action only where it has commenced a competition supervision proceeding against the infringement in question. Where a competition supervision proceeding has been initiated, the court shall stay its proceeding, upon request of the Hungarian Competition Authority, until the competition supervision proceeding has been closed.

##### time-bar

(3) No action may be filed after the end of one year following the date when the infringement was committed. Missing this time limit results in forfeiting the right to start action. When counting the time limit set for the enforcement of the claim, the duration of the competition supervision proceeding shall not be taken into account.

##### publication of the judgement

(4) It shall be preconditions for the defendant to be found guilty as demanded by the statement of claim that, in addition to the fulfilment of the general provisions of procedural law, the existence of a uniform legal basis of the claim put forward can be verified as a consequence of the fact that the consumers concerned by the claim are in an identical situation and, furthermore, that in cases where damages are demanded, the amount of the damages can uniformly be determined and cases where other demands are raised, means of satisfying those demands can uniformly be identified. If the court admits the claim, it shall oblige by its judgement the undertaking to satisfy the demand raised by the claim; furthermore, it shall identify the group of consumers entitled to request the fulfilment of the obligation imposed by the judgement. By its judgement, the court may authorise the Hungarian Competition Authority to publish the judgement in a national daily at the expense of the infringer or to make it public it in any other form justified by the nature of the infringement.

<sup>313</sup> Its number was modified by Act XLVII of 2008; entering into force as of 1 September 2008.

<sup>314</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008. It shall be applied in proceedings initiated henceforward.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

**The Competition Act (Act LVII of 1996)**

(5) The infringer must satisfy the claim of the consumers entitled within the meaning of Section (4) in accordance with the judgement. In the absence of voluntary compliance, consumers entitled may request the court to order the enforcement of the judgement. The court verifies the entitlement of consumers in the framework of its procedure for the issue of enforcement certificates, based on the conditions set by the judgement.

(6) The enforcement of claims by the Hungarian Competition Authority under this Article does not prejudice the right of consumers to take further action by himself against the infringer under the provisions of the civil law.

**legal consequences**

## Article 93

The legal consequences arising from the violation of the provisions of this Act and the enforced civil law claims shall not prejudice the possibilities to apply other civil law consequences defined in other legal norms or to initiate a petty offence action or a criminal proceeding.

## Article 94

**international cooperation**

The procedural rules of cooperation with foreign competition authorities are set out in international agreements or in separate legal norms.

Article 94/A<sup>315</sup>**complaints and notifications of public interest**

Articles 141 to 143 of Act XXIX of 2004 on the Amendment of Certain Statutes and the Repeal and Laying Down of Certain Statutory Provisions Related to the Accession to the European Union are not applicable in cases covered by this Act.

## Article 95

**entry into force**

(1) This Act enters into force on 1<sup>st</sup> January 1997. Cases pending at the time of its entry into force, however, shall continue to be governed by the provisions of Act LXXXVI of 1990 on the Prohibition of Unfair Market Practices.

(2) The fixed term appointments of the President of the Hungarian Competition Authority and of his/her deputies in effect at the time of the entry into force of this Act are not affected by its entry into force.

(3)(4)<sup>316</sup>

**transitional period**

## Article 96

**block exemption**

The Government shall be empowered to lay down in regulations the rules of the exemption of certain groups of agreements from the prohibition declared by Article 11 of this Act.

Article 97<sup>317</sup>**repeal**

<sup>315</sup> Established by Act LXVIII of 2005; entering into force as of 1 November 2005.

<sup>316</sup> Repealed by Act LXXXII of 2007; no longer in force as of 1 July 2007.

<sup>317</sup> Repealed by Act LXXXII of 2007; no longer in force as of 1 July 2007.

**The sidenotes merely provide help in orientation in the text, they do not constitute parts or interpretation of the act.**

Article 98<sup>318</sup>**implementation of  
Regulations**

The rules necessary for the implementation

a) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty are set out in Article 1(2), Article 33(3), point e) of Article 36(1), Article 91/A(1), Articles 91/B to 91/D, Article 91/E(1)-(4) and Articles 91/F to 91/H,

b) of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings are set out in point e) of Article 36(1), Article 91/A(2), Article 91/E(5)-(11) and Articles 91/F and 91/G,

c) of Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws are set out in Chapter XVII

of this Act.

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<sup>318</sup> Amended by Act XLVII of 2008; entering into force as of 1 September 2008.