

UNOFFICIAL TRANSLATION

LAW OF COMPETITION 21 of April 10th 1996 - Republished*)

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▶(on 14-Feb-2012 see enforcement references in Regulations 2012)

▶(on 5-Sep-2011 see enforcement references in Regulations 2012)

▶(on 20-Jan-2010 the document was the case law Decision 230 of January 20th 2010)

CHAPTER I: General Provisions

Art. 1

The scope of this law is to protect, maintain and stimulate competition and a normal, competitive environment, with a view towards promoting consumers' interests.

Art. 2

(1) The provisions of this law apply to acts and deeds which restrict, prevent or distort competition, and are committed by:

a) undertakings or groups of undertakings, individuals or legal entities - - Romanian or foreign nationality -- hereinafter "undertakings";

b) central or local public administration authorities, to the extent to which they, by the decisions issued or regulations adopted, intervene in market operation, directly or indirectly influencing competition, except for situations when such measures are taken to enforce other laws or protect a major public interest.

(2) Undertakings as described by this law represent any economic operator engaged in an activity of goods or services provision on a given market, regardless of its legal status and financing, as defined in the case law of the European Union.

▶(on 14-Jul-2011 art. 2, paragraph (2) in Chapter I amended by Art. I 1. in Law 149/2011)

(3) Where the undertakings described in par. (1)(a) become parts of a group set up through an agreement, understanding, pact, protocol, contract, etc.), either explicit and public or hidden and secret, but without legal personality, regardless of the form - entente, coalition, group, block, federation and if the acts and deeds provided for in par. (1) were committed while participating in such a group, the provisions of this law will apply to each undertaking, considering the principle of proportionality.

▶(on 14-Jul-2011, art. 2, paragraph (3) in Chapter I amended by Art. I, item 1. in Law 149/2011)

(4) The provisions of this law will apply to the acts and deeds provided for in par. (1) when committed on the Romanian territory and outside the Romanian territory, when they produce effects on the Romanian territory.

▶(on 5-Aug-2012 Art. 2 in Chapter I amended by Art. I, item 1. in Emergency Ordinance 75/2010)

Art. 3

(1) The administration and enforcement of this law are entrusted to the Competition Council, acting as an autonomous administrative authority, with authority vested in them for this purpose, in accordance with the conditions, procedures and limitations established by the provisions of this law.

▶(on 14-Jul-2011 Art. 3, paragraph (1) in Chapter I amended by Art. I, item 2. in Law 149/2011)

(2) The Competition Council enforces the provisions laid down in articles 101 and 102 in the Treaty on the Functioning of the European Union,

according to the provisions laid down by the Council Regulations (EC) 1/2003 of December 16th 2002 on the enforcement of the competition rules laid down under articles 81 and 82 in the treaty, and further amendments and completions, hereinafter called the Council Regulations (CE) 1/2003, when the acts or deeds of undertakings or associations of undertakings may affect trade between European Union Member States.

▶(on 5-Aug-2010 2010 Art. 3 in Chapter I amended by Art. I, item 2. in [Emergency ordinance 75/2010](#))

☐**Art. 4**

▶(on 15-Sep-2006, Art. 4 in Chapter I amended see the case law [Decision 440 of September 15th 2006](#))

(1) The prices of products and the tariffs of services and works will be determined freely through competition, based on demand and supply. Prices and tariffs charged for natural-or legal monopoly activities will be established and adjusted with the Ministry of Public Finance's advisory opinion, except for those under other jurisdictions provided for through special laws.

▶(on 11-Jan-2006 Art. 4, paragraph (1) in Chapter I see the case law [Sentence 59 of January 11th 2006](#))

(2) In the economic sectors or markets where competition is precluded or substantially restricted by law or by the existence of a monopolistic position, the Government may institute, by decision, appropriate forms of price-control for periods not exceeding 3 years, which may be successively extended for periods not exceeding 1 year, if the circumstances that justified the adoption of the Government decision continue.

(3) For specific economic sectors and under exceptional circumstances, such as: crisis situations, major imbalance between demand and supply, and obvious market failure, the Government may enforce temporary measures to prevent or even block excessive price increases. These measures may be adopted by Government decision, for a period of 6 months, which may be successively extended for periods not exceeding 3 months, as long as the circumstances that justified the Government decision continue.

(4) For situations described in paragraphs (2) and (3), the Government intervention will be made with the Competition Council's advisory opinion.

☐**CHAPTER II: Anticompetitive Practices**

☐**Art. 5**

▶(on 18-March-2011 Art. 5 in Chapter II pertained to [Guidelines - 2011](#))

▶(on 12-Oct-2010 Art. 5 in Chapter II see enforcement references in [Regulations 2010](#))

▶(on 25-Jul-2005 Art. 5 in Chapter II regulated by [Guidelines - 2005](#))

▶(on 27-Apr-2005 Art. 5 in Chapter II regulated by [Guidelines - 2005](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by appendix 6 din [Guidelines - 2004](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 7.2.. in Chapter VII din [Guidelines - 2004](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 7.1.. in Chapter VII din [Guidelines - 2004](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by appendix 5 din [Guidelines - 2004](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 6.2.. in Chapter VI din [Guidelines - 2004](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 6.1.. in Chapter VI in [Guidelines - 2004](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by e appendix 4 din [Guidelines - 2004](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 5.2.. in Chapter V in [Guidelines - 2004](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 5.1.. in Chapter V in [Guidelines - 2004](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by appendix 3 din [Guidelines - 2004](#))

▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 4.2.. in Chapter IV in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 4.1. in Chapter IV in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by appendix 2 din **Guidelines - din 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 3.2.. in Chapter III in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 3.1.. in Chapter III in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by appendix 1 in **Guidelines - din 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 2.2.. in Chapter II in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 2.1.. in Chapter II in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 1.2.. in Chapter I in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by item 1.1.. in Chapter I in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by Chapter IV in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5 in Chapter II regulated by Chapter I in **Guidelines - 2004**)
 ▶(on 01-Apr-2004 Art. 5 in Chapter II regulated by Chapter III in **Guidelines - 2004**)
 ▶(on 18-May-2004 Art. 5, paragraph (1) in Chapter II see enforcement references in **Regulations 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (1) in Chapter II regulated by **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (1) in Chapter II regulated by item 7.3.. in Chapter VII in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (1) in Chapter II regulated by item 6.3.. in Chapter VI in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (1) in Chapter II regulated by item 5.3.. in Chapter V in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (1) in Chapter II regulated by item 4.3.. in Chapter IV in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (1) in Chapter II regulated by item 3.3.. in Chapter III in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (1) in Chapter II regulated by item 2.3.. in Chapter II in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (1) in Chapter II regulated by item 1.3.1.. in Chapter I in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (1) in Chapter II regulated by Chapter IV, section 1, subsection 1⁴1 in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (1) in Chapter II regulated by Chapter II in **Guidelines - 2004**)
 ▶(on 11-Jul-2005 Art. 5, paragraph (2) in Chapter II regulated by **Guidelines - 2005**)
 ▶(on 17-May-2004 Art. 5, paragraph (2) in Chapter II regulated by item 7.4.. in Chapter VII in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (2) in Chapter II regulated by item 6.4.. in Chapter VI in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (2) in Chapter II regulated by item 5.4.. in Chapter V in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (2) in Chapter II regulated by item 4.4.. in Chapter IV in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (2) in Chapter II regulated by item 3.4.. in Chapter III in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (2) in Chapter II regulated by item 2.4.. in Chapter II in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (2) in Chapter II regulated by item 1.3.2.. in Chapter I in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (2) in Chapter II regulated by Chapter V in **Guidelines - 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (2) in Chapter II regulated by Chapter IV, section 1, subsection 1⁴2 in **Guidelines - din 2004**)
 ▶(on 17-May-2004 Art. 5, paragraph (2) in Chapter II regulated by Chapter III din **Guidelines - 2004**)

►(on 17-May-2004 Art. 5, paragraph (3) in Chapter II regulated by item 1.3.3.. in Chapter I in **Guidelines - din 2004**)

☐(1) Any express or tacit agreements between undertakings or associations of undertakings, any decisions by associations of undertakings and any concerted practices, which have as their object or may have as their effect the restriction, prevention or distortion of competition on the Romanian market or on a part of it, will be prohibited, especially those aimed at:

►(on 14-Jul-2011 Art. 5, paragraph (1) in Chapter II amended by Art. I, item 3. in **Law 149/2011**)

a) concerted fixing, directly or indirectly, of the selling or purchase prices, as well as any other terms of trading;

b)limiting or controlling production, trading, technological development or investments;

c)allocating distribution markets or input sources;

d) imposing unequal terms for equivalent services to trading partners, thus causing a competitive disadvantage to some of them;

e)conditioning the conclusion of contracts by imposing upon partners the acceptance of certain clauses stipulating additional services which, either by their nature or by commercial usage, do not relate to the scope of such contracts;

f)participating, in a concerted manner, with rigged bids in auctions or any other forms of competitive tendering;

g)eliminating competitors from the market, limiting or preventing access to the market and the free exercise of competition by other undertakings, as well as agreements not to purchase from or to sell to certain parties without reasonable justification.

1. Turnover associated to the financial period (non-aggregate determined according to item 5.2.1)	3.000
2. Turnover for insurance activities (determined according to item 5.2.3)	300
3. Turnover for industrial activities (determined according to item 2.2)	2.000
4. Deduction of dividends and other revenue paid by companies under items 2 and 3	(200)
5. Total turnover of the financial holding company	5.100

☐(2)**Agreements, decisions by associations of undertakings or concerted practices are excepted from the prohibition stipulated in paragraph 1, if the following conditions are met cumulatively, as follows:**

a)they contribute to the improvement of production or distribution of goods or to the promotion of technical or economic progress, whilst customers or consumers are assured a benefit corresponding to that realized by the participants in that respective agreement, decision made by an association of undertakings or concerted practice;

b)they impose the said undertakings solely those restrictions which are critical to obtaining the expected objectives;

►(on 14-Jul-2011 Art. 5, paragraph (2), letter B. in Chapter II amended by Art. I, item 3. in **Law 149/2011**)

c) they do not allow the undertakings to eliminate competition from a substantial part of the product or service market in question.

Suppliers [image]

Distributor

Consumer

Market A

Market B

(3)Agreements, decisions and concerted practices, exempted through the application of provisions in paragraph (2), as well as conditions and criteria for framing are laid down by the Regulations of the European Union Council or the European Commission on the application of provisions laid down by 101 paragraph (3) in Treaty on the Functioning

of the European Union of specific agreement categories, decisions of associations of undertakings or concerted practices, called block exemption regulations, which apply accordingly.

(4) Agreements, decisions and concerted practices laid down in par. (1), which meet the conditions in par. (2) as well as the criteria and conditions for qualification within the categories in par. (3), are deemed legal, without the obligation to notify or to obtain a decision from the Competition Council.

(5) The burden of proof for the violation of provisions in par. (1) is borne by the Competition Council. The undertakings or the associations of undertakings invoking the block exemption will prove they meet the conditions and the criteria provided in pars. (2) and (3).

(6) Whenever the Competition Council applies the provisions in par. (1) to the agreements, decisions or concerted practices, should these be likely to affect trade between member states, the Council will also apply the provisions in art. 101 in Treaty on the Functioning of the European Union.

► (on 05-Aug-2010 Art. 5 in Chapter II amended by Art. I, item 3. in Emergency ordinance 75/2010)

▣ Art. 6

► (on 18-Mar-2011 Art. 6 in Chapter II pertained to Guidelines - 2011)

► (on 12-Oct-2010 Art. 6 in Chapter II se enforcement references in Regulations -2010)

► (on 27-Apr-2005 Art. 6 in Chapter II regulated by Guidelines - din 2005)

► (on 01-Apr-2004 Art. 6 in Chapter II regulated by Chapter III in Guidelines - 2004)

► (on 15-Jun-2006 Art. 6, letter A. in Chapter II see case law Ruling 116/A of 15-Jun-2006)

▣ (1) Any abuse of a dominant position held by one or more undertakings on the Romanian market or on a substantial part of it is prohibited. Such abusive practices are primarily those:

a) imposing, directly or indirectly, the sale or purchase prices, the tariffs or other inequitable contractual clauses, as well as the refusal to deal with certain suppliers or customers;

b) limiting production, trade or technological development, to the consumers' disadvantage;

c) applying unequal terms for equivalent services to trade partners, thereby placing some of them at a competitive disadvantage;

d) making the conclusion of contracts subject to the acceptance by the other partners of supplementary obligations which, by their nature or according to commercial usage have no connection with the subject of these contracts;

e) charging excessive prices or predatory prices, with the aim of driving competitors out of the market or of selling on the export below production costs, recovering differences by imposing increased prices to domestic consumers;

f) taking advantage of the state of economic dependence of another undertaking towards such an undertaking or undertakings and which does not have an alternative solution under equivalent conditions, as well as breaking contract relations for the sole reason that the partner is refusing to submit to certain unjustified commercial conditions.

(2) Whenever the Competition Council applies the provisions in par. (1) if the abuse of dominant position may affect trade between member states, the Council will also apply the provisions in art. 101 in Treaty on the Functioning of the European Union.

(3) It is assumed, until evidence to the contrary, that an undertaking or a group of undertakings are in a dominant position if their market share or aggregate market shares on the relevant market, in the period under analysis, exceed(s) 40%.

▶(on 14-Jul-2011 Art. 6, paragraph (3) in Chapter II amended by Art. I, item 4. in Law 149/2011)

▶(on 05-Aug-2010 Art. 7 in Chapter II repealed by Art. I, item 5. in Emergency Ordinance 75/2010)

Art. 8

▶(on 29-Dec-2004 Art. 8, paragraph (1) in Chapter II see enforcement references in Order 519/2004)

(1) The provisions in arts. 5 and 6 are not applicable under the following circumstances:

a) the aggregate market share the undertakings involved in the agreement does not exceed 10% on any of the relevant affected markets, when this is concluded by undertakings which compete or may compete on one of these markets;

b) the market share of each undertaking involved in the agreement does not exceed 15% on any of the relevant markets affected by the agreement, when this is concluded by undertakings which do not compete or may compete on any of these markets;

c) should it be difficult to decide whether there is an agreement between competitors or non-competitors, the 10% threshold will apply according to provisions in par. (1) letter a).

(2) Whenever competition is restricted on a relevant market by the aggregate effect of goods or service provision agreements concluded with various suppliers or distributors, the thresholds in par. (1) are reduced to 5%, both for agreements concluded by competitors, as well as for those concluded by non-competitors.

(3) Agreements do not restrict competition unless market shares exceed the 10%, 15% and 15% thresholds, provided in pars. (1) and (2), by more than 2% during two consecutive calendar years.

(4) The limitations provided for in pars. (1)-(3) are not applicable to any of the following serious restrictions:

a) as regards agreements between competitors, as defined in art. 8 par. (1), restrictions which directly or indirectly, in isolation or in combination with other factors controlled by the undertakings aim at:

1. price- fixing of products sold to third parties;

2. limitation of production or sales;

3. division of markets or customers;

b) as regards agreements between non-competitors, as defined in art. 8 par. (1), restrictions which directly or indirectly, in isolation or in combination with other factors controlled by the undertakings aim at:

1. the restriction of the buyer's capacity to set the sale price, without influencing the supplier's possibility to impose a maximum sale price or recommend a sale price, provided that the former are not equal to a fix sale price or a minimum sale price set subsequent to pressure applied by either party or to stimulation measures by that party;

2. territory restrictions or restrictions related to customer to whom the buyer may sell the goods or services representing the scope of the contract, except for the case when there are one or two non-serious restrictions:

(i) restrictions of active sales to an exclusive territory or to an exclusive group of customers reserved to the supplier or granted by the supplier to a different buyer, when such a restriction does not limit sales made by the buyer's customers;

(ii) restrictions of sales to end users imposed by a buyer who acts as a whole-seller on the market;

(iii) restrictions of sales to non-authorized distributors imposed by the members of a selective distribution system;

(iv) restrictions of the buyer's capacity to sell components to be incorporated in larger systems to customers who may use them for manufacturing products similar to those manufactured by the supplier;

3. restrictions of active or passive sales to end-users imposed by the members of a selective distribution system who act as retailers on the market, without influencing preventing a member of the system to operate in non-authorized secondary premises;

4. restrictions of cross deliveries between distributors in a selective distribution system, including between distributors operating at different trade levels;

5. restrictions agreed upon by a supplier of components and a buyer who integrates such components into larger systems, which restricts the possibility for the supplier to sell such components as parts to end-users, repair companies or service providers who have not been listed by the buyer for the fixing or maintenance of his products;

c) as regards agreements between competitors, as defined in art. 8 par. (1) whenever competitors collude, at different levels of the production or supply chain, any of the serious restrictions listed under letters a) and b).

► (on 14-Jul-2011 Art. 8, par. (4) in Chapter II amended by Art. I, item 5. in [Law 149/2011](#))

(5) Provisions in pars. (1)-(4) also apply for decision of groups of undertakings and concerted practices.

► (on 05-Aug-2010 Art. 8 in Chapter II amended by Art. I, item 6. in [Emergency ordinance 75/2010](#))

Art. 9

► (on 18-Mar-2011 Art. 9 in Chapter II pertained to [Guidelines - 2011](#))

► (on 12-Oct-2010 Art. 9 in Chapter II see enforcement regulations in [Regulations - 2010](#))

☐ (1) Any actions by the central or local public administrative body are prohibited which have as an object or may have as an effect the restriction, prevention or distortion of competition, especially: ► (on 14-Jul-2011 Art. 9, par. (1) in Chapter II amended by Art. I, item 6. in [Law 149/2011](#))

a) limitation of the freedom of trade or the undertakings' autonomy, exercised under the law;

b) setting discriminatory business conditions for the operation of undertakings.

(2) Should central or local public administration authorities or entities to which they delegated their responsibilities not abide the Competition Council's decision, within the set deadline, in order to restore the competitive environment, the latter may challenge the action before the Bucharest Court of Appeal, and request the court, accordingly, to completely or partially cancel the act which led to the restriction, prevention or distortion of competition, and oblige the authority or institution in question to issue and administrative act or carry out a specific administrative procedure.

► (on 14-Jul-2011 Art. 9, par. (2) in Chapter II amended by Art. I, item 6. in [Law 149/2011](#))

(3)The Competition Council may refer to the court under the conditions in par. (2), within 6 months since the expiry of the period mentioned in the decision, during which the authority or the institution of the central government shall adhere to the measures required to restore the normal competitive environment.

➤(on 05-Aug-2010 Art. 9 in Chapter II amended by Art. I, item 7. in Emergency ordinance 75/2010)

CHAPTER III: Mergers

➤(on 11-Jan-2012 Chapter III regulated by Chapter III in Regulations 2010)

➤(on 05-Aug-2010 Chapter III regulated by Art. 39 in Chapter VIII in Regulations 2010)

➤(on 05-Aug-2010 Chapter III regulated by Chapter V in Regulations 2010)

➤(on 05-Aug-2010 Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Chapter III regulated by Regulations 2010)

➤(on 05-Aug-2010 Chapter III regulated by part 1 in Guidelines - 2010)

Art. 10

➤(on 11-Jan-2012 Art. 10 in Chapter III regulated by Art. 2 in Chapter I in Regulations 2010)

➤(on 05-Aug-2010 Art. 10 in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10 in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10 in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10 in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10 in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10 in Chapter III regulated by part 2 in Guidelines - 2010)

(1)A merger takes effect when the long-term change of control results from:

➤(on 05-Aug-2010 Art. 10, par. (1) in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (1) in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (1) in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (1) in Chapter III regulated by part 2 in Guidelines - 2010)

a)the merging of two or more previously independent undertakings or parts of undertakings; or

➤(on 05-Aug-2010 Art. 10, par. (1), letter A. in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (1), letter A. in Chapter III regulated by part 2 in Guidelines - 2010)

b)one or more persons, already holding control over at least one undertaking, or one or more undertakings directly or indirectly, or by purchase of securities or assets, either by contract or other means, acquire control directly or indirectly over one or several undertakings or parts thereof.

➤(on 05-Aug-2010 Art. 10, par. (1), letter B. in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (1), letter B. in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (1), letter B. in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (1), letter B. in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (1), letter B. in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (1), letter B. in Chapter III regulated by part 2 in Guidelines - 2010)

(2)The setting up of a joint venture company which operates like an autonomous economic entity represents a merger according to provisions in par. (1) letter b).

➤(on 05-Aug-2010 Art. 10, par. (2) in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (2) in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (2) in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (2) in Chapter III regulated by part 2 in Guidelines - 2010)

➤(on 05-Aug-2010 Art. 10, par. (2) in Chapter III regulated by part 2 in Guidelines - 2010)

▶(on 11-Jan-2012 Art. 10, par. (2) in Chapter III regulated by Art. 19 in Chapter V, section I din **Regulations 2010**)

▶(on 05-Aug-2010 Art. 10, par. (3) in Chapter III regulated by part 2 in **Guidelines - 2010**)

▶(on 05-Aug-2010 Art. 10, par. (3) in Chapter III regulated by part 2 in **Guidelines - 2010**)

▶(on 05-Aug-2010 Art. 10, par. (3) in Chapter III regulated by part 2 in **Guidelines - 2010**)

(3)Should the setting-up of a joint venture, representing a merger according to provisions in par. (1) have as an object or as an effect the coordination of competitive behaviour of the participant undertakings still independent, this is assessed according to criteria laid down in art. 5 pars. (1)-(3), as well as those in art. 101 par. (1) and (3) in the Treaty on the Functioning of the European Union, in order to establish whether the merger is appropriate for normal competition environment.

▶(on 14-Jul-2011 Art. 10, par. (3) in Chapter III amended by Art. I, item 7. in **Law 149/2011**)

☐(4)When carrying out the assessment mentioned in par. (3), the Competition Council considers, especially, the following criteria:

▶(on 05-Aug-2010 Art. 10, par. (4) in Chapter III regulated by part 2 in **Guidelines - 2010**)

▶(on 05-Aug-2010 Art. 10, par. (4) in Chapter III regulated by part 2 in **Guidelines - 2010**)

▶(on 05-Aug-2010 Art. 10, par. (4) in Chapter III regulated by part 2 in **Guidelines - 2010**)

a)if two or more holding companies preserve, to a significant degree, the operations on the same market as the joint venture or on a market upstream or downstream from the market of the joint venture or on a market in close relation with this market;

b)if, by the coordination which represents the direct consequence of setting up the joint venture, the undertakings in question can eliminate competition for a significant part of the products or services in question.

☐(5)For purposes of this law, control results from rights, contracts or other elements that grant, individually or taken together, and considering de facto and de jure circumstances, the possibility to exercise decisive influence over an undertaking, especially through:

▶(on 05-Aug-2010 Art. 10, par. (5) in Chapter III regulated by part 2 din **Guidelines - 2010**)

a)rights of ownership or of usage of the whole or part of an undertaking's assets;

b)rights or contracts that grant a decisive influence over the undertaking structure, the deliberations or decision-making of the undertaking's management.

☐(6)control is acquired, according to pars. (1)-(5) by one or several individuals or by one or several undertakings who:

a)hold the rights or are beneficiaries of the contracts mentioned in par. (5);

b)do not hold the rights or are beneficiaries of the contracts mentioned in par . (5), but have the power to exert a decisive influence granted thereby.

▶(on 05-Aug-2010 Art. 10 in Chapter III amended by Art. I, item 8. in **Emergency ordinance 75/2010**)

☐Art. 11

▶(on 05-Aug-2010 Art. 11 in Chapter III regulated by part 2 in **Guidelines - 2010**)

▶(on 05-Aug-2010 Art. 11 in Chapter III regulated by Art. 3 in Chapter I in **Regulations 2010**)

A merger does not take effect when:

a)control is acquired and exercised by a liquidator nominated pursuant to a court order, or by any other person mandated by a public authority to accomplish the procedures of cessation of payments, recovery, compositions, judicial liquidations or winding ups, forced execution on debt or other analogous procedure;

▶(on 05-Aug-2010 Art. 11, letter A. in Chapter III regulated by part 2 in **Guidelines - 2010**)

b) credit institutions or any other financial institutions or insurance companies whose normal activity include transactions and negotiation in securities for their own account or the account of others, hold, on a temporary basis securities which they have acquired in an undertaking with a view to reselling them, provided that they do not exercise voting rights in respect of those securities so that they may determine the competitive behaviour of that undertaking or provided that they exercise such votes only with a view to achieving these securities, provided that the achievement of these securities takes place within one year of the date of acquisition; that period may be extended by the Competition Council on request where the requester can prove that the achievement of the securities was not reasonably possible within the period set;

▶ (on 05-Aug-2010 Art. 11, letter B. in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 11, letter B. in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 11, letter B. in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 11, letter B. in Chapter III regulated by part 2 in [Guidelines - 2010](#))

c) control is acquired by the persons or undertakings under art. 10 par. (1) letter b), whose sole object of activity is the purchase of shares in other companies, managed and valorize such shares, without directly or indirectly engaging in the management of the companies in question provided that the voting rights in respect of the holding are exercised, in particular in relation to the appointment of members of the management and supervisory bodies of the undertaking in which they have holdings, only to maintain the full value of those investments without determining directly or indirectly the competitive conduct of the controlled undertakings;

▶ (on 05-Aug-2010 Art. 11, letter C. in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 11, letter C. in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 11, letter C. in Chapter III regulated by part 2 in [Guidelines - 2010](#))

d) undertakings, including those part of the same group, which perform restructuring and reorganization transactions of their activities.

▶ (on 05-Aug-2010 Art. 11 in Chapter III amended by Art. I, item 9. in [Emergency ordinance 75/2010](#))

▶ (on 05-Aug-2010 Art. 11, letter D. in Chapter III regulated by part 2 in [Guidelines - 2010](#))

Art. 12

▶ (on 05-Aug-2010 Art. 12 in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 12 in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 12 in Chapter III regulated by part 2 in [Guidelines - 2010](#))

Mergers which, which may have the effect of creating significant restriction of competition on the Romanian market or on a significant part thereof, especially subsequent to the creation or consolidation of dominant position, are prohibited.

▶ (on 05-Aug-2010 Art. 12 in Chapter III amended by Art. I, item 10. in [Emergency ordinance 75/2010](#))

▶ (on 05-Aug-2010 Art. 13 in Chapter III repealed by de Art. I, item 11. in [Emergency ordinance 75/2010](#))

Art. 14

▶ (on 05-Aug-2010 Art. 14 in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 14 in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 14 in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 14 in Chapter III regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 14 in Chapter III regulated by Art. 1 in Chapter I din [Regulations 2010](#))

The provisions of this chapter apply to mergers where the aggregate turnover of the undertakings concerned exceeds the equivalent in RON of 10,000,000 euro and at least two undertakings involved in the merger

have an individual turnover of more than 4,000,000 euro, equivalent in RON. The equivalent in lei will be determined at the exchange rate of the National Bank of Romania valid for the last day of the financial year prior to the merger.

▶(on 05-Aug-2010 Art. 14 in Chapter III amended by Art. I, item 12. in [Emergency ordinance 75/2010](#))

a: undertaking¹⁷

¹⁷F For the chart we consider that the joint venture is itself an undertaking according to the criteria set out in item 140 (control takeover by a fully operational joint venture, operating on the same market).

b: Its subsidiaries, companies held jointly with third parties (b3) and subsidiaries thereof (b1 and b2)

c: Its holding companies and holding companies thereof (c1)

d: Other subsidiaries of holding companies of the undertaking

e: Companies held jointly by two (or more) companies of the group

x: Third party

Art. 15

▶(on 11-Jan-2012 Art. 15 in Chapter III regulated by Art. 30, par. (1), letter A. in Chapter VI in [Regulations 2010](#))

▶(on 11-Jan-2012 Art. 15 in Chapter III regulated by Art. 28 in Chapter V, section IV in [Regulations 2010](#))

▶(on 11-Jan-2012 Art. 15 in Chapter III regulated by Art. 4 in Chapter II din [Regulations 2010](#))

▶(on 05-Aug-2010 Art. 15 in Chapter III regulated by part 2 din [Guidelines - 2010](#))

▶(on 05-Aug-2010 Art. 15 in Chapter III regulated by Art. 17 in Chapter IV din [Regulations 2010](#))

▶(on 05-Aug-2010 Art. 15 in Chapter III regulated by appendix II in [Regulations 2010](#))

▶(on 05-Aug-2010 Art. 15 in Chapter III regulated by appendix I in [Regulations 2010](#))

▶(on 05-Aug-2010 Art. 15 in Chapter III regulated by Art. 7 in Chapter II in [Regulations 2010](#))

(1)Mergers exceeding the thresholds under Art.14 must be notified to the Competition Council before they take effect and after the conclusion of the agreement, after the announcement of the public offer or after the control package is taken over.

▶(on 05-Aug-2010 Art. 15, par. (1) in Chapter III regulated by part 2 din [Guidelines - 2010](#))

▶(on 05-Aug-2010 Art. 15, par. (1) in Chapter III regulated by part 2 din [Guidelines - 2010](#))

▶(on 11-Jan-2012 Art. 15, par. (1) in Chapter III regulated by Art. 30, par. (3), letter A. in Chapter VI in [Regulations 2010](#))

(2)The notification can also be submitted should the undertakings prove to the Competition Council the good-intention to conclude an agreement or, in the case of a public offer, they have publicly expressed their opinion to make such an offer, provided that the agreement or the planned offer results in a merger which meets the criteria laid down in art. 14.

▶(on 05-Aug-2010 Art. 15, par. (2) in Chapter III regulated by Art. 6 in Chapter II din [Regulations 2010](#))

▶(on 11-Jan-2012 Art. 15, par. (2) in Chapter III regulated by Art. 30, par. (3), letter A. in Chapter VI din [Regulations 2010](#))

(3)For purposes of this law, the term "notified merger" also includes, planned mergers, which are notified according to provisions in par. (2).

(4)Mergers realized through the merger of two or several undertakings must be notified by each of the involved parties; in all the other cases, the notification must be submitted by the individual, the undertaking or undertaking who gain control over one or several undertakings or over parts of them;

▶(on 05-Aug-2010 Art. 15, par. (4) in Chapter III regulated by Art. 5 in Chapter II in [Regulations 2010](#))

(5)The criteria for assessing the compatibility of mergers with a normal competitive environment, the notification procedure, the exemption-granting procedure, the terms, documents and data to be presented, notifications and comments to be submitted by the undertakings

concerned will be established through the regulations and guidelines adopted by the Competition Council.

▶(on 05-Aug-2010 Art. 15, par. (5) in Chapter III regulated by Art. 8 in Chapter II in Regulations 2010)

▶(on 05-Aug-2010 Art. 15, par. (5) in Chapter III regulated by Art. 9 in Chapter II in Regulations 2010)

▶(on 05-Aug-2010 Art. 15, par. (5) in Chapter III regulated by Art. 10 in Chapter II in Regulations 2010)

▶(on 05-Aug-2010 Art. 15, par. (5) in Chapter III regulated by Art. 11 in Chapter II in Regulations 2010)

(6)It is forbidden to put a merger into effect prior to the notification and to being declared compatible with a normal competitive environment, by decision of the Competition Council, according to provisions laid down in art. 46.

▶(on 05-Aug-2010 Art. 15, par. (6) in Chapter III regulated by Art. 18 in Chapter IV in Regulations 2010)

▶(on 05-Aug-2010 Art. 15, par. (6) in Chapter III regulated by Art. 25 in Chapter V, section III in Regulations 2010)

▶(on 11-Jan-2012 Art. 15, par. (6) in Chapter III regulated by Art. 30, par. (3), letter B. in Chapter VI in Regulations 2010)

☐(7)The provisions in par. (6) do not prevent the application of a public offer or a series of securities transaction, including securities convertible into other types of securities, accepted for trading on a market such as the stock exchange, through which control is gained according to provisions in art. 10 from different sellers, if all of the following prerequisites are met cumulatively:

▶(on 11-Jan-2012 Art. 15, par. (7) in Chapter III regulated by Art. 30, par. (3), letter B. in Chapter VI in Regulations 2010)

a)the merger must be notified without delay to the Competition Council, according to provisions in par. (1);

b)the person who takes control must not use his voting rights associated to the securities in question or do so solely in order to preserve the full value of his investment on the grounds of an exemption granted by the Competition Council, according to provisions in par. (8).

(8)The Competition Council may grant, upon request, an exemption from the rule set out in par. (6). The exemption application must be justified. In the decision, the Competition Council will consider the effects of the prohibition of the merger on one or several undertakings or on third parties and the threat posed by the said merger to competition. This exemption may be granted under the reserve of fulfilling prerequisites and duties necessary in order to assure effective competition. An exemption may be granted at any moment, both prior, as well as subsequent to the notification thereof.

▶(on 11-Jan-2012 Art. 15, par. (8) in Chapter III regulated by Art. 30, par. (3), letter A. in Chapter VI in Regulations 2010)

▶(on 11-Jan-2012 Art. 15, par. (8) in Chapter III regulated by Art. 30, par. (3), letter B. in Chapter VI in Regulations 2010)

(9) the Competition Council will analyze and decide upon the validity of any merger, including the one established in violation of provisions in par. (6), according to provisions in art. 46 pars. (2), (4) and (5).

▶(on 05-Aug-2010 Art. 15 in Chapter III amended by Art. I, item 13. in Emergency ordinance 75/2010)

☐CHAPTER IV: The Competition Council

▶(on 01-Apr-2004 Chapter IV see enforcement references in Regulations 2004)

☐**Art. 16**

(1) The Competition Council is hereby set up as an autonomous administrative authority in the field of competition, a legal entity, which exercises its responsibilities according to the provisions of this law. The main office of the Competition Council is in the city of Bucharest.

(2) The Competition Council's organizational and staff structure, its management responsibilities and staff functions will be established through the internal regulations adopted by the Competition Council.

☐**Art. 17**

(1) The Plenum of the Competition Council is a collegial body and is made up of 7 members, as follows: one president, 2 vice-presidents and 4 competition counselors. The President of Romania appoints the members of the Competition Council Plenum, at the proposal of the Consultative College of the Competition Council; the Plenum Members are endorsed by the Romanian Government after hearing the candidates in the specialized commission of the Parliament. A proposed member can be rejected solely by presenting the grounds for this decision.

▶(on 14-Jul-2012 Art. 17, par. (1) in Chapter IV amended by Art. I, item 8. in [Law 149/2011](#))

(2) The duration of the Competition Council members' term is 5 years, and they may be reappointed once at the most. The members of the Plenum fulfill duties according to the regulations approved by the Plenum or according to the President's delegation of duties.

▶(on 14-Jul-2011 Art. 17, par. (2) in Chapter IV amended by Art. I, item 8. in [Law 149/2011](#))

(3) The president, vice-presidents and the competition counsellors are required to have real independence and enjoy professional reputation and civic probity.

▶(on 14-Jul-2011 Art. 17, par. (3) in Chapter IV amended by Art. I, item 8. in [Law 149/2011](#))

☐**(3¹)** In order to be appointed member of the Competition Council Plenum one must:

a) be a Romanian citizen, a citizen of an European Union Member State or a state in the European Economic Area or a citizen of the Swiss Confederation;

b) know Romanian;

c) be legally competent;

d) be a certified higher education graduate;

e) prove high professional competence in the area of competition;

f) have from a good reputation;

g) have a background of minimum 10 years in economic or legal areas;

h) not have been convicted for a criminal offence committed purposefully, for which the law provides a prison sentence of 3 or more years.

▶(on 14-Jul-2011 Art. 17, par. (3) in Chapter IV completed by de Art. I, item 8. in [Law 149/2011](#))

(4) The president must have previously had a leading position with wide responsibilities, in which he proved his professional and managerial capabilities.

(5) The status of Competition Council member is incompatible with other professional or consultancy positions, with the participation, directly or by proxy, in the management or administration of other public or private entities or with holding public positions or dignities, with the exception of teaching in higher education institutions, scientific research or artistic creation. They cannot be appointed experts or arbitrators, either by parties or by courts or by other institutions.

▶(on 14-Jul-2011 Art. 17, par. (5) in Chapter IV amended by Art. I, item 8. in [Law 149/2011](#))

(6) The members of the Competition Council Plenum do not represent the authority that appointed them and are independent in their decision-making.

(7) The members of the Competition Council Plenum and competition inspectors cannot be members of a political party or other political organizations.

☐(8) The term of a member of the Competition Council Plenum member ends:

a) at its expiration;

b) by resignation;

c) by death;

d) in case of permanent impossibility to discharge one's duties for more than 60 consecutive days;

e) in case of an incompatible work status such as those provided under pars. (5) and (7), according to provisions in par. (11);

f) in case of revocation, for the violation of this law or for a criminal conviction, through a final court decision, for having committed a criminal offence.

(9) The members of the Competition Council Plenum may be revoked, under par. (8) letter f), by the appointing authority. Until a final criminal court decision is issued, they may be suspended by the same authority.

(10) In case of a vacancy on the Competition Council Plenum because of one of situations referred to in par. (8) letters b)- f), in compliance with par. 1, a new member will be nominated and appointed to the vacant position for the remainder of the term.

(11) The members of the Competition Council Plenum are required to notify the Council immediately of any situation of incompatible work status or impediment according to pars. (5) and (7), being de facto suspended from office from the moment this situation occurs, and if the situation lasts for more than 10 consecutive days, the member's term ends and pars. (9) and (10) apply.

(12) The activity of the members Competition Council Plenum is deemed specialized experience required for being appointed in management positions of regulators, as well as any authorities or public institutions.

☒(on 14-Jul-2011 Art. 17, par. (11) in Chapter IV completed by de Art. I, item 8. in [Law 149/2011](#))

☐Art. 17¹

In case of vacancy of the Competition Council President position because of one of situations referred to in art. 17 par. (8) letters b)-f), until a new president is appointed, according to the law, the member of the Plenum with the longest experience as the vice-president of the Competition Council becomes the interim president for the remainder of the period.

☒(on 05-Aug-2010 Art. 17 in Chapter IV completed by Art. I, item 14. in [Emergency ordinance 75/2010](#))

☐Art. 18

☐(1) Before starting to exercise his position, each member of the Competition Council shall take the following oath, in front of the President of Romania, in the presence of the other appointed members and after the presidential appointing decree is read:

"I swear to observe the Constitution and the laws of the country, to protect the interests of Romania and the fundamental rights and liberties of its citizens, to fulfil all responsibilities with honour, dignity, loyalty, responsibility and impartiality. So help me God!"

(2) The President of the Competition Council is the first sworn in.

(3) In case he does not take the oath within 30 days from the publication of the decree of appointment in the Romanian Official Journal, a member is by law

withdrawn, and the procedure of nominating and appointing another person for the vacancy shall be resumed.

(4) Deeds carried out by any of the Competition Council members prior to taking the oath are null as such.

Art. 19

(1) The term of the Competition Council members begins when they are sworn in and expire at the dates provided in art. 17 par. (2), calculated from this date.

(2) If the President of the Competition Council appointed for the next term is not sworn in according to Article 19 before the current term expires, the members of the Competition Council will continue their activity until the president of the Competition Council appointed for the next term is sworn in.

(3) When, before the expiration of a term of a member of the Competition Council expires, according to provisions in art. 17 par. (8) letter a), a new member is not appointed, the member of the Plenum whose term expires will continue his activity until the member appointed for the next term is sworn in.

(on 05-Aug-2010 Art. 19, par. (2) in Chapter IV completed by Art. I, item 15. in [Emergency ordinance 75/2010](#))

Art. 20

(on 08-Nov-2011 Art. 20 in Chapter IV see enforcement references in [Regulations 2011](#))

(1) The Competition Council functions, deliberates and makes decisions in the Plenum sessions and in commissions. The Competition Council Plenum gathers and is deemed valid provided that at least 5 members are present, and decisions are adopted with the vote of the majority of the Plenum members. The commission gathers and is deemed valid provided that 3 members are present, and decisions are adopted with the majority of members' votes.

(on 14-Jul-2011 Art. 20, par. (1) in Chapter IV amended by Art. I, item 9. in [Law 149/2011](#))

(2) Each commission is made up of 2 competition councilors, as designated by the President of the Competition Council for each particular case, and is headed by a vice-president of the Competition Council.

(3) The President of the Competition Council orders investigations to take effect and appoints a rapporteur for each investigation.

(4) For the purposes of applying this law, the Competition Council examines in plenary sessions:

a) investigation reports and possible objections to them, and decides which measures should be taken;

b) the authorization of mergers;

c) opinions, recommendations and advisory opinions drafted in regard to the enforcement of this law;

d) drafts of regulations to be adopted;

e) the annual report referred to in art. 31 par. (1), the annual report on state-aid, as well as any other reports on competition and state-aid;

(on 05-Aug-2010 Art. 20, par. (4) in Chapter IV amended by Art. I, item 16. in [Emergency ordinance 75/2010](#))

(4¹) The Competition Council Plenum may delegate the duties in par. (4) letters a) and b) to a commission made up of 3 Plenum members.

(on 14-Jul-2011 Art. 20, par. (4) in Chapter IV completed by Art. I, item 10. in [Law 149/2011](#))

(5) During deliberations, each member has one vote; in cases of a tie vote, the president's vote shall prevail.

(6) The decisions adopted by the Competition Council Plenum in compliance with par. (4) are signed by the president, on behalf of the Competition Council. They may be challenged within 30 days from

publication or, depending on the case, from the date they were communicated by administrative proceedings before the Bucharest Court of Appeal. The ruling shall be without right of appeal, but may be challenged by recourse before the Supreme Court of Cassation and Justice.

▶(on 14-Jul-2011 Art. 20, par. (6) in Chapter IV amended by Art. I, item 11. in [Law 149/2011](#))

Art. 21

(1) The President of the Competition Council, by his signature, binds the patrimony of the Competition Council as a legal person, and represents it as public institution before natural and legal persons, before legislative, judiciary and administrative authorities, and other Romanian, foreign and international institutions. He exercises disciplinary authority with respect to all Competition Council staff.

(2) The Competition Council's orders and decisions which determine measures and apply sanctions will be signed by the President, and the regulations adopted by the Competition Council will be put into effect, suspended or abrogated by order of the President.

(3) In case of the President's absence or unavailability, the legal representation of the Competition Council will pass onto one of the vice-presidents, designated by the President for the period of his absence or unavailability.

(4) The President of the Competition Council may delegate powers of representation to any of the vice-presidents, competition counselors, competition inspectors or other persons; the mandate will explicitly mention the delegated powers and the period of their delegation.

Art. 22

(1) In order to carry out its duties, the Competition Council will draw up and adopt its own organizational, functioning and procedural regulation, and sets up its own apparatus, at central and local levels.

(2) The list of its own apparatus, which includes competition inspectors and other categories of staff, appointing, promoting and incentivizing terms, and the duties of each position will be set by regulations adopted by the Competition Council, while observing the regulations on public office and public servants and the regulations regarding the waging of staff in the state sector.

(3) The specialized public position relative to the Competition Council is that of competition inspector.

(4) The activity carried out in the Competition Council by competition inspectors with higher education studies is deemed specialized working years.

▶(on 14-Jul-2011 Art. 22, par. (4) in Chapter IV amended by Art. I, item 12. in [Law 149/2011](#))

Art. 23

The position of President of the Competition Council is equivalent to that of a minister, the vice-president - to a secretary of state, and the competition counselor - to an under-secretary of state.

Art. 24

The Competition Council structure includes a general secretariat led by a general secretary, appointed by the Competition Council. The general secretary's duties are set up through the Competition Council's organizational, functioning and procedural regulations.

(2) Within the Competition Council operates the Consultative College, a non-permanent body, made up of 11 up to 17 representatives of the academia specialized in competition, the business environment and

consumer protection associations or other people with a solid economic, legal or competition background.

(3)The members of the Consultative College shall observe the legal provisions regarding the conflict of interests related to the activities they attend within the college. The former presidents of the Competition Council are entitled to participate in the sessions of the Consultative College.

(4)The Consultative College gives non-binding advisory opinion on the main aspects of the competition policy. Within the Consultative College, there may be working groups specialized in various subjects.

(5)The operation regulations of the Competition Council approved by the Government through a decision lays out the manner in which members of the Consultative College are appointed and the role, the functioning and the structure of the Consultative College.

►(on 14-Jul-2011 Art. 24 in Chapter IV completed by Art. I, item 13. in [Law 149/2011](#))

☐**Art. 25**

(1) The Competition Council will draw up its own budget that will be a distinct chapter of the state budget.

(2) In order to assure the operation of the Competition Council and its territorial staff, the Government and, as the case may be, the local public administration body will assign buildings, grounds and other facilities from the public property of national or local interest, within 60 days of the registration of a request from the Competition Council.

(3) The returns from fees, taxes or fines, or from other sanctions enforced by the Competition Council, will become revenue to the state budget, according to the law.

►(on 17-Mar-2011 Art. 25, par. (3) in Chapter IV see enforcement references in [Regulations 2011](#))

(4)The Competition Council will bear, within the limits of the budget funds approved in this respect, the amounts for providing legal advice to the Plenum members, competition inspectors and other categories of staff, related to their work activity, according to the law, whenever they are in an defendant or accused position.

(5)The amounts granted by the Competition Council to the Plenum members or any other staff for providing legal advice will be reimbursed thereby should they be found guilty through a court decision stating that the offence was committed outside the scope of job responsibilities as provided for in the law.

(6)The procedure and terms under which the amounts for providing legal advice are born by The Competition Council will be regulated through the order of the president of the Competition Council.

►(on 05-Aug-2010 Art. 25, par. (3) in Chapter IV completed by Art. I, item 18. in [Emergency Ordinance 75/2010](#))

☐**Art. 26**

☐**(1) The Competition Council has the following duties:**

►(on 11-Jan-2012 Art. 26, par. (1) in Chapter IV regulated by Art. 28 in Chapter V, section IV in [Regulations 2010](#))

a)to conduct investigations as regards the application of articles 5, 6, 9, 15 and art. 46 par. (3) herein, as well as provisions in articles 101 and 102 in Treaty on the Functioning of the European Union;

b)to take decisions, according to this law, regarding the violation of articles 5, 6, 9 and 15 herein, as well as provisions in articles 101 and

102 in Treaty on the Functioning of the European Union, found subsequent to investigations conducted by competition inspectors;

c)to accept commitments and imposes interim measures, according to the law;

d)to take decisions in merger cases, according to the law;

e)to withdraw, through a decision, exemptions for agreements, decisions of groups of undertakings or concerted practices according to provisions in one of the European regulations for block exemptions, according to provisions in art. 29 par. (2) in the Council Regulations (EC) 1/2003;

f)to carry out the effective enforcement of its own decisions, including the monitoring of decisions and the effects of mergers authorized through decisions;

g)to conduct, upon its own initiative, investigations aimed at a specific sector or a specific type of agreement in different sectors, when price rigidity or other circumstances suggest the possibility of competition distortion or restraint. The Competition Council can publish a report on the investigation outcomes in specific economic sectors or a specific type of agreement in different sectors and invite stakeholders to formulate opinions;

h)to notify the Government about monopoly situations or other cases subject to art. 4 pars. (2) and (3), and to propose the Government the measures deemed necessary for the remedy of the ascertained dysfunctions;

i)to inform the courts on cases subject to their jurisdiction;
▶(on 14-Jul-2011 Art. 26, par. (1), letter I. in Chapter IV amended by de Art. I, item 14. in Law 149/2011)

j)to supervise the enforcement of legal provisions and other rules related to the object of this law;

k)to notify the Government about the interference of central and local public administration bodies in enforcing this law;

l)to give advisory opinion on the governmental legislation bills that may have an anticompetitive impact, authorities and institutions of the central and local government must request this advisory opinion and propose amendments to the governmental legislation bills having such effects;

▶(on 14-Jul-2011 Art. 26, par. (1), letter L. in Chapter IV amended by Art. I, item 14. in Law 149/2011)

m)to recommend to the Government and the local public administration to adopt measures facilitating the market and competition development;

n)to propose to the Government and local public administration bodies, disciplinary measures against their staff for not observing the mandatory decisions of the Competition Council;

o)to draw up studies and reports on its field of activity, and to inform the Government, the public and the specialized international organizations about this activity;

p)to represent Romania and promote exchange of information and of experience in the relations with specialized international organizations and institutions; as a national competition authority, the Competition Council is responsible for the relationship with the institutions of the European Union, according to the relevant provisions in the European law, and cooperates with other competition authorities;

r)to establish and approve the mission, the general strategy and the agenda of the competition authority;

s)to take any other decisions in order to meet the duties arising under this law;

§)to ensure the application of provisions laid down by Government Emergency Ordinance [117/2006](#) on national procedures on state-aid, approved with amendments through Law [137/2007](#).

(2)For the purpose of carrying out the duties under par. (1) letters a) and g), the Competition Council may conduct preliminary hearings, during which it is entitled to request information and documents, according to art. 35 par. (2).

(3) the Competition Council, as the national competition authority, has all the rights and duties laid down by the Council Regulations (EC) 1/2003, as well as those in Council Regulations (EC) 139/2004 of the Council of January 22nd 2004 on merger control. National courts have all rights and duties as laid down by the Council Regulations (EC) 1/2003, as well as those in Council (EC) 1/2003.

▶(on 05-Aug-2010 Art. 26 in Chapter IV amended by de Art. I, item 19. in [Emergency ordinance 75/2010](#))

(4)All references to the Competition Office, in Law [11/1991](#), with further amendments and completions, will be replaced with Competition Council. The Competition Council can use any of the tools in this law to identify and sanction unfair competition deeds.

▶(on 14-Jul-2011 Art. 26, par. (3) in Chapter IV completed by Art. I, item 15. in [Law 149/2011](#))

☐Art. 27

▶(on 18-Mar-2011 Art. 27 in Chapter IV related to [Guidelines - 2011](#))

▶(on 01-Apr-2004 Art. 27 in Chapter IV regulated by [Guidelines - 2004](#))

(1)The Competition Council adopts regulations and guidelines, issues orders and drafts advisory opinions, makes recommendations and draws up reports in order to apply the provisions of this law.

(2) The Competition Council may make good practice recommendations in various sectors and issue guidelines on general aspects of competition law enforcement, considering the case law of national and European Union courts, as well as the case law of the European Commission.

▶(on 14-Jul-2011 Art. 27, par. (2) in Chapter IV amended by Art. I, item 16. in [Law 149/2011](#))

▶(on 14-Jul-2011 Art. 27, par. (3) in Chapter IV repealed by Art. I, item 17. in [Law 149/2011](#))

(4)The Competition Council issues orders to enforce, suspend or repeal regulations adopted in the plenum, orders investigations, takes measures pertaining to internal management and subordinated staff, as well as other measures necessary for fulfilling the strategy and mission of a competition authority.

(5)The decisions of the Competition Council are unilateral administrative acts with an individual character through which one observes infringements of the provisions herein and appropriate sanctions are imposed, measures required for restoring the competition environment are adopted, access is granted to confidential information, complaints formulated based hereon are solved, as well as merger applications and notifications.

(6)For the purpose of this law, endorsements are formulated, recommendations and proposals made, opinions formulated, reports drafted and submitted, accordingly.

►(on 05-Aug-2010 Art. 27 in Chapter IV amended by Art. I, item 20. in [Emergency ordinance 75/2010](#))

☐**Art. 28**

(1) Draft regulations and guidelines, as well as their amendments, require the approval of the Legislative Council, being subsequently adopted by the plenum of the Competition Council and enforced by order of the Competition Council's President.

►(on 21-Jul-2009 Art. 28, par. (2) in Chapter IV was challenged (exception allowed) [Decision 1037/2009](#))

(2)The regulations of the Competition Council may be appealed by judicial review before the Bucharest Court of Appeal, according to Law 554/2004 on administrative proceedings, with further amendments and completions.

►(on 05-Aug-2010 Art. 28, par. (2) in Chapter IV amended by Art. I, item 21. in [Emergency ordinance 75/2010](#))

☐**Art. 29**

The Competition Council shall state its viewpoint on every aspect of competition policy, at the request of:

- a)the Presidency and Government of Romania;**
- b)the Parliament commissions, senators and deputies;**
- c)the central or local public administration bodies;**
- d)the professional, employers' and trade union organizations should they have legal duties to regulate their sector;**
- e)consumers' protection organizations;**
- f)courts and prosecutors' offices.**

►(on 05-Aug-2010 Art. 29 in Chapter IV amended by Art. I, item 22. in [Emergency ordinance 75/2010](#))

☐**Art. 30**

(1) In matters concerning the privatization policy, respectively the branch or sectorial policies, the Competition Council will consult with the ministries in charge and other central or local public administration bodies, and the employers' organizations.

(2) The organizations mentioned in par. (1) will submit their opinion to the Competition Council within 30 days from request. Such opinion will be attached to the report on the case under investigation.

(3) In fulfilling its duties, the Competition Council will consult with central or local public administration bodies, and request them information and assistance.

►(on 05-Aug-2010 Art. 30, par. (4) in Chapter IV repealed by Art. I, item 23. in [Emergency ordinance 75/2010](#))

☐**Art. 31**

(1) The Competition Council will draw up an annual report on its activity, and the manner in which the undertakings and public authorities observe the rules of competition, according to this law.

(2) The report will be adopted by the plenum of the Competition Council, and be published.

☐**Art. 32**

►(on 05-Aug-2011 Art. 32 in Chapter IV regulated by [Guidelines - 2010](#))

(1)This law sets up the following fees: the authorization fee to authorize mergers, which will be paid when issuing a decision to authorize according to art. 46 par. (2) and par. (4) letters b) and c).

(2)The authorization fee for mergers is set between 10,000 and 25,000 euro, through guidelines issued by the Competition Council. The equivalent in lei of the authorization fee is determined at the exchange rate communicated by the Romanian national bank on the last day of the

financial period in the year prior to issuing the decision to authorize the merger.

►(on 14-Jul-2011 Art. 32, par. (2) in Chapter IV amended by Art. I, item 18. din Law 149/2011)

(3)The returns from the fees mentioned in par.(1) become revenue to the state budget, within due term and according to the regulations of the fiscal law.

►(on 05-Aug-2010 Art. 32 in Chapter IV amended by Art. I, item 24. in Emergency ordinance 75/2010)

Value of authorization fee (euro)	Turnover intervals (euro)
10,000	4.000.000 – 15,000,000
12,500	15.000.001 -25,000,000
15,000	25.000.001 -50,000,000
17,500	50.000.001 -75,000,000
20,000	75.000.001 – 150,000,000
22,500	150.000.001 -250,000,000
25,000	over 250,000,000

CHAPTER V: The procedure of preliminary investigation, investigation and decision-making

Art. 33

(1)The identification and investigation of violations of this law, as well as of provisions laid down in articles 101 and 102 in the Treaty on the Functioning of the European Union are incumbent on the Competition Council, through competition inspectors.

(2)In case of violation of art. 60 par. (1) herein, the staff appointed according to par. 1 may solely take the measures provided in Art. 214 of the Criminal Procedure Code.

►(on 05-Aug-2010 Art. 33 in Chapter V amended by Art. I, item 25. in Emergency ordinance 75/2010)

Art. 34

The Competition Council, according to its duties, orders investigations, provided that there are de facto and de jure ground therefor:

a)ex officio;

b)following a complaint by an individual or a legal person who was in effect and directly affected by a violation of art. 5, 6, 9 and 15 herein, as well as of articles 101 and 102 in the Treaty on the Functioning of the European Union.

►(on 05-Aug-2010 Art. 34 in Chapter V amended by Art. I, item 26. in Emergency ordinance 75/2010)

Art. 35

(1)In order to analyse complaints submitted according to art. 34 letter b) and merger notifications, as well as for carrying out the duties in art. 26 par. (1), competition inspectors, indicating the legal grounds, the purpose, deadlines and sanctions laid down in la art. 50 letters a) and b), art. 50¹ par. (1) letter a) and par. (2) and art. 54 par. (1) letter e), may request the necessary information and documents:

►(on 11-Jan-2012 Art. 35, par. (1) in Chapter V regulated by Art. 28 in Chapter V, section IV in Regulations 2010)

a) from undertakings and associations of undertakings;

►(on 11-Jan-2012 Art. 35, par. (1), letter A. in Chapter V regulated by Art. 30, par. (1), letter B. in Chapter VI in Regulations 2010)

►(on 11-Jan-2012 Art. 35, par. (1), letter A. in Chapter V regulated by Art. 31, par. (1), letter C. in Chapter VI in Regulations 2010)

b) from authorities and institutions of the central and local government.

►(on 11-Jan-2012 Art. 35, par. (1), letter B. in Chapter V regulated by Art. 30, par. (2), letter A. in Chapter VI in [Regulations 2010](#))

(2)In conducting the preliminary investigation procedure, required for the ex officio carrying out of duties in art. 26 par. (1) letters a) and g), competition inspectors, indicating the legal grounds, the purpose, deadlines and sanctions laid down in la art. 50 letter c) or, accordingly, art. 50¹ par. (1) letter b), may request the necessary information and documents from undertakings or associations of undertakings, as well as from authorities and institutions of the central and local government.

►(on 11-Jan-2012 Art. 35, par. (2) in Chapter V regulated by Art. 28 in Chapter V, section IV in [Regulations 2010](#))

►(on 11-Jan-2012 Art. 35, par. (2) in Chapter V regulated by Art. 30, par. (1), letter C. in Chapter VI in [Regulations 2010](#))

►(on 11-Jan-2012 Art. 35, par. (2) in Chapter V regulated by Art. 30, par. (2), letter B. in Chapter VI in [Regulations 2010](#))

(3)For the purpose of provisions in articles 101 and 102 the Treaty on the Functioning of the European Union, the Competition Council may request the documents and information in pars. (1) and (2), at the request of the European Commission and competition authorities in European Union member states.

(4)Competition inspectors, gaining access to documents, data and information in pars. (1), (2) and (3), shall keep the state or work secret of the said documents, data and information.

(5)Information collected according to provisions in par. (1)-(3), art. 35¹ and art. 36 may be used solely for the purpose of enforcing the competition law. The Competition Council can notify other institutions or public authorities in case aspects pertaining to their competence are encountered.

►(on 14-Jul-2011 Art. 35, par. (5) in Chapter V amended by Art. I, item 19. in [Law 149/2011](#))

▣Art. 35¹

►(on 11-Jan-2012 Art. 35¹ in Chapter V regulated by Art. 28 in Chapter V, section IV in [Regulations 2010](#))

For the purpose of its duties, the Competition Council can request statements from any individuals or the legal representative of the undertaking who agrees to make such statements.

►(on 14-Jul-2011 Art. 35¹ in Chapter V amended by Art. I, item 20. in [Law 149/2011](#))

▣Art. 36

►(on 11-Jan-2012 Art. 36 in Chapter V regulated by Art. 31, par. (1), letter D. in Chapter VI in [Regulations 2010](#))

►(on 11-Jan-2012 Art. 36 in Chapter V regulated by Art. 30, par. (1), letter E. in Chapter VI in [Regulations 2010](#))

►(on 11-Jan-2012 Art. 36 in Chapter V regulated by Art. 30, par. (1), letter D. in Chapter VI in [Regulations 2010](#))

►(on 11-Jan-2012 Art. 36 in Chapter V regulated by Art. 29 in Chapter V, section IV in [Regulations 2010](#))

►(on 11-Jan-2012 Art. 36 in Chapter V regulated by Art. 28 in Chapter V, section IV in [Regulations 2010](#))

▣(1)In order to investigate violations of this law, competition inspectors are empowered to conduct inspections, with the exception of beginners, and have the following powers to inspect:

a)to enter premises, grounds or vehicles of business use which belong to undertakings or associations of undertakings;

b)to examine documents, account books, financial, accounting and commercial documents or other evidence related to the business of the undertakings or associations of undertakings, regardless of the location where they are stored and the hard-copy or electronic format;

c)to request statements from representatives and employees of the undertaking or the association of undertakings pertaining to facts or documents which are relevant for the inspection and record or write down the answers thereof;

d)to seize or obtain, in any form, copies or excerpts from documents, account books, financial, accounting and commercial documents or other records related to the business of the undertaking or the association of undertakings;

e)to apply seals on business locations of the undertaking or the association of undertakings and on documents, account books, financial, accounting and commercial documents or other records related to the business of the undertakings or the association of undertakings;

(2)Competition inspectors having powers to inspect shall proceed as described under par. (1) solely if there are clues that documents may be found or information may be obtained which are deemed necessary to fulfill their task and the results thereof will be recorded in a fact-finding and inventorying minutes.

(3)Competition inspectors having powers to inspect may conduct dawn raids, and may request any information or justifications related to the fulfillment of their task, either on the spot, or upon summoning at the Competition Council main office.

(4)Competition inspectors are granted inspection powers by the order of the President of the Competition Council. A certified copy of this order is handed to the undertaking or association of undertakings which are inspected, in compliance with provisions in par. (2).

►(on 14-Jul-2011 Art. 36, par. (4) in Chapter V amended by Art. I, item 21. in [Law 149/2011](#))

(5)The Competition Council conducts inspections at the request of the European Commission and other competition authorities in member states, according to the provisions in art. 22 in the Council Regulations (EC) 1/2003 and art. 12 in the Council Regulations (EC) 139/2004, based on the inspection order issued by the President of the Competition Council.

(6)The inspection order will indicate the scope and goal of the inspection, set out the date when the inspection commences and present the sanctions in articles 50 and 54, as well as the right to challenge the order before Bucharest Court of Appeal, administrative proceedings and fiscal section, within 15 days since notification, with an exemption from Law [554/2004](#), and further amendments and completions. The decision of the Court of Appeal may be appealed against, within 5 days since notification. Courts will solve the case in emergency and as a priority.

(7)At the request of the Competition Council, should there be opposition against the inspection, police officers shall accompany inspection teams and provide all necessary support, for the purpose of the inspection.

(8)Communication between the undertaking or association of undertakings under investigation and the attorney thereof, carried out during and for the sole purpose of defending the undertaking, i.e. after commencing the administrative proceedings based on this law or subsequent to commencing the administrative proceedings, provided that this communication pertains to the scope of the proceedings, may not be seized or used as evidence, during the proceedings carried out by the Competition Council. Preparatory documents drawn-up by the

undertaking or association of undertakings under investigation for the sole purpose of defence may not be seized or used as proof.

▶(on 14-Jul-2011 Art. 36, par. (8) in Chapter V amended by Art. I, item 21. in [Law 149/2011](#))

(9)Whenever undertakings fail to prove the protected character of the communication, according to par. (8), competition inspectors carrying out the inspection can seal and seize the documents in question, in two copies.

(10)The President of the Competition Council will make a decision, on an emergency basis, based on the proof and arguments collected. Should the President of the Competition Council make the decision to reject the protected character of the communication, the document may be unsealed solely after the expiry of the deadline within which the decision can be challenged, according to provisions in par. (11) or, should the decision be challenged, after the court ruling becomes final and irrevocable.

(11)The decision of the President of the Competition Council as regards the protected character of the communication can be challenged in an administrative proceeding before Bucharest Court of Appeal within 15 days since notification, with an exemption from [Law 554/2004](#), and further amendments and completions. The decision of the Court of Appeal is under recourse, which is declared 5 days since the notification. Courts will solve the case in emergency and as a priority.

▶(on 14-Jul-2011 Art. 36, par. (11) in Chapter V amended by Art. I, item 21. in [Law 149/2011](#))

(12)Inspection power scan be used in compliance with the regulations on the organization, functioning and procedure of the Competition Council.

▶(on 05-Aug-2010 Art. 36 in Chapter V amended by Art. I, item 29. in [Emergency ordinance 75/2010](#))

Art. 37

▶(on 11-Jan-2012 Art. 37 in Chapter V regulated by Art. 29 in Chapter V, section IV in [Regulations 2010](#))

According to the judicial competence granted through ruling, according to the provisions of Art. 38, competition inspectors may perform inspections on any premises, including domiciles, lands or transportation means belonging to managers, administrators, executives and other employees of the undertakings or associations of undertakings under investigation.

Art. 38

▶(on 11-Jan-2012 Art. 38 in Chapter V regulated by Art. 29 in Chapter V, section IV in [Regulations 2010](#))

(1)Competition inspectors may commence investigations, in accordance to the provisions of art. 37, solely based on an order issued by the President of the Competition Council and provided that they have judicial authorization from the President of Bucharest Court of Appeal or a judge delegated thereby. A certified copy of the search order and of the judicial ruling must be served to the person under investigation before the search commences.

(2)The authorization request is judged in the council chamber, without taking out summons against the parties. The judge decides on the ruling request within 48 hours since the request is registered. The decision is justified and communicated to the Competition Council within 48 hours since it is taken.

(3) If the inspection must be carried out simultaneously in several premises as provided in art. 37, the Competition Council will submit one request and the court will decide upon the premises where the search will be carried out.

(4) The authorization request must include all information justifying the search, and the judge shall check whether the request is justified.

(5) Whatever the circumstances, the search will be conducted between 8:00 am and 6 pm, and must be conducted in the presence of the occupant of the searched premises or his representative. The search may continue after 6 pm solely with the consent of the occupant of the searched premises or his representative.

(6) Inventories and application of seals will be done according to the Criminal Procedure Code.

(7) The authorization in par. (1) can be appealed with recourse in the High Court for Cassation and Justice, within 48 hours. The appeal term for the Competition Council starts when the ruling is served, according to provisions in par. (2). As regards the person under investigation, the appeal term starts at the moment the ruling is served, according to provisions in par. (1). The appeal is not suspensive of execution.

(8) The President of Bucharest Court of Appeal or the judge delegated thereby can issue the judicial ruling, as mentioned in art. 21 par. (3) in the Council Regulations (EC) 1/2003.

► (on 05-Aug-2010 Art. 38 in Chapter V amended by Art. I, item 30. in [Emergency ordinance 75/2010](#))

► (on 05-Aug-2010 Art. 39 in Chapter V appended de Art. I, item 31. in [Emergency ordinance 75/2010](#))

☐ **Art. 40**

(1) Upon receipt of a request or complaint denouncing anticompetitive practices, the Competition Council examine whether there is enough de jure and de facto evidence to support starting an investigation.

(2) If the complaint does not justify an investigation, the Competition Council will reject it and notify their decision to the initiator, in writing, stating the rejection reasons, within 60 days from the date of confirmation that the complaint is complete and fulfils all prerequisites, according to provisions in par. (4). The Competition Council can reject a complaint after the initiator thereof is given the possibility to present his opinion as regards the reasons for which the competition authority intends to reject the complaint.

► (on 14-Jul-2011 Art. 40, par. (2) in Chapter V amended by Art. I, item 22. din [Law 149/2011](#))

(3) The decision to reject a complaint can be appealed before Bucharest Court of Appeal, within 30 days since notification.

(4) The Competition Council will decide, through regulations, the prerequisite for a request it receives in to be deemed a complaint, as well as the procedure applicable to solve it.

(5) In case the filed complaint does not fall under the scope of this law, the Competition Council will answer in writing, within 30 days since the registration of the complaint.

► (on 05-Aug-2010 Art. 40 in Chapter V amended by Art. I, item 32. in [Emergency ordinance 75/2010](#))

☐ **Art. 41**

(1) Whenever an investigation is ordered, the President of the Competition Council will appoint a rapporteur to draw up the investigation report, to

communicate it to the parties involved, to record the observations and to present the report to the Competition Council Plenum, if necessary.

(2) The appointed rapporteur will be in charge of preparing all documents for the investigation procedure and shall submit proposals to the Competition Council, for the measures he is entitled to order.

Art. 42

(1) If, after commencing an investigation ex officio, one finds that it did not lead to the discovery of sufficient proof for the violation of the law which should justify measures or sanctions imposed by the Competition Council, the former, by order of the President, can close the investigation and inform the parties immediately.

▶ (on 11-Jan-2012 Art. 42, par. (1) in Chapter V regulated by Art. 29 in Chapter V, section IV in Regulations 2010)

(2) Whenever, after an investigation is commenced subsequent to a complaint, and it is found out that it did not lead to reasonable evidence that the law was violated, able to justify remedies or sanctions to be imposed by the Competition Council, the latter, by Decision of the Plenum may close the investigation, after hearing the parties if the initiator of the complaint so requests.

▶ (on 19-Jul-2011 Art. 42, par. (2) in Chapter V corrected by Act in Correction 2011)

Art. 43

(1) Except for the situation mentioned under Art. 42 par. (1), in any investigation procedures, the Competition Council gives the undertakings participating in the agreement, the decision taken by associations of undertakings, concerted practices, abuse of dominant position or merger, forming the scope of the investigation, the chance to express their comments in writing as regards the contents of the statement of objection. In the written remarks, the former can request hearings by the Competition Council. Whenever the Competition Council consider it useful for establishing the truth, they can hold hearings, even in the absence of such a request. The deadline for submitting comments, respectively the date of hearings, are set by the President of the Competition Council.

▶ (on 14-Jul-2011 Art. 43, par. (1) in Chapter V amended by Art. I, item 24. in Law 149/2011)

(2) The President of the Competition Council may appoint experts and may authorize the initiator of the complaint to be heard, upon the request of the latter, as well as any other individual or legal entity claiming to possess relevant data and information necessary to establish the truth in the case under investigation.

(3) Absence from or renouncing the hearing, as well as refusal to testify or submit statements, will not prevent the investigation procedure from going on.

▶ (on 05-Aug-2010 Art. 43 in Chapter V amended by Art. I, item 34. in Emergency ordinance 75/2010)

Art. 44

▶ (on 11-Jan-2012 Art. 44 in Chapter V regulated by Art. 29 in Chapter V, section IV in Regulations 2010)

(1) A copy of the report will be submitted for the information of persons under investigation, at least 30 days prior to the date of the hearing, during which they can submit their comments. The persons admitted for hearing according to art. 43 par. (2) will be submitted a copy of the report solely upon request and provided that the President of the Competition Council considers this useful in the interest of the

investigation.

►(on 14-Jul-2011 Art. 44, par. (1) in Chapter V amended by Art. I, item 25. in [Law 149/2011](#))

(2) The President of the Competition Council may allow the parties involved to study the case file and get copies and excerpts of the investigation papers on their own cost.

(3)The right to file case access is not extended to cover business secrets, other confidential information and the internal documents of the Competition Council, the European Commission or competition authorities in the European Union member states. The right to file case access is not extended either to cover mail between the Competition Council and the European Commission or competition authorities in the European Union member states or between the latter, when such mail is included in the Competition Council file.

(4)Confidential case documents, data and information are solely available for study and photocopies and excerpts may be obtained solely by order of the President of the Competition Council. The order of the President of the Competition Council can be appealed before Bucharest Court of Appeal – Administrative section, within 15 days since the parties are notified. The decision of the court of appeal can be appealed within 5 days since notification. The courts will judge the case in emergency and as a priority.

►(on 14-Jul-2011 Art. 44, par. (4) in Chapter V amended by Art. I, item 25. in [Law 149/2011](#))

(5)The appeal against the order of the President of the Competition Council suspends the proceedings of the competition authority until a final and irrevocable ruling is made, according to provisions par. (4).

►(on 14-Jul-2011 Art. 44, par. (5) in Chapter V amended by Art. I, item 25. in [Law 149/2011](#))

(6)No provisions herein forbids the right of the Competition Council to disclose and use the information required to prove a violation of articles 5 and 6 herein, as well as articles 101 and 102 in the Treaty on the Functioning of the European Union.

(7)In case of an investigation procedure on a merger, the provisions under this article pertaining to studying the file case apply to associations and executives of undertakings involved in the merger, provided that they justified a legitimate interest.

►(on 05-Aug-2010 Art. 44 in Chapter V amended by Art. I, item 35. in [Emergency ordinance 75/2010](#))

Art. 45

(1)The Competition Council, in case of investigations commenced according to provisions under art. 34, may decide, accordingly, to:

a)order the cessation of anticompetitive practices;

b)impose interim measures;

c)accept commitments;

d)impose fines to the undertakings or associations of undertakings according to provisions in chapter VI;

e)formulate recommendations, impose conditions or other obligations to the parties. Should the Competition Council decide according to provisions under par. (1) letter a), they can impose behavior correction measures or structural corrective measures proportional to the infringement as required for the cessation of the infringement. Structural corrective measures will be imposed when there is no behavior corrective measure equally efficient or when a behavior corrective measure equally would be more onerous for the undertaking in question than a structural corrective measure.

(2) The Competition Council can also decide that there are no reasons to intervene, when, based on the information available, the prerequisites for an agreement, decision or concerted practice to be forbidden are not fulfilled.

(3) The Competition Council, in carrying out the duty under art. 26 par. (1) letter e), may decide to withdraw the benefit of exemption for agreements, decisions of associations of undertakings or concerted practices to which one of the provisions in the European block exemption regulations applies, whenever for a specific reason, those agreements, decisions or concerted practices cause effects incompatible with articles 101 par. (3) in the Treaty on the Functioning of the European Union on the territory of Romania or on a part thereof with all the characteristics of a distinct geographic area.

▶(on 05-Aug-2010 Art. 45 in Chapter V amended by Art. I, item 36. in Emergency ordinance 75/2010)

Art. 46

▶(on 11-Jan-2012 Art. 46 in Chapter V regulated by Art. 38 in Chapter VII in Regulations 2010)

▶(on 11-Jan-2012 Art. 46 in Chapter V regulated by Art. 36 in Chapter VII in Regulations 2010)

▶(on 11-Jan-2012 Art. 46 in Chapter V regulated by Chapter V, section IV in Regulations 2010)

▶(on 05-Aug-2010 Art. 46 in Chapter V regulated by Art. 37 in Chapter VII in Regulations 2010)

▶(on 05-Aug-2010 Art. 46 in Chapter V regulated by Art. 35 in Chapter VII in Regulations 2010)

▶(on 05-Aug-2010 Art. 46 in Chapter V regulated by Chapter V, section III in Regulations 2010)

▶(on 05-Aug-2010 Art. 46 in Chapter V regulated by Art. 8 in Chapter II in Regulations 2010)

(1) Within 30 days from receiving a notification of a merger case, the Competition Council will answer, through a notification, when it is found that the merger does not fall under the scope of this law.

▶(on 05-Aug-2010 Art. 46, par. (1) in Chapter V regulated by Art. 34 in Chapter VII in Regulations 2010)

(2) Within 45 days from receiving a complete notification of a merger case, the Competition Council will issue a decision of non-objection when it is found that the merger does not fall under the scope of this law:

▶(on 05-Aug-2011 Art. 46, par. (2) in Chapter V regulated by item 2. in Guidelines - 2010)

a) there are no serious doubts concerning compatibility with a normal competitive environment; or

b) serious doubts concerning compatibility with a normal competitive environment have been removed through the commitments proposed by the undertakings and accepted by the Competition Council. The competition authority may decide, by decision, upon the conditions and obligations required for the undertakings to fulfill their commitments so that the merger is compatible with a normal competitive environment.

▶(on 03-Jan-2011 Art. 46, par. (2), letter B. in Chapter V see enforcement references in Guidelines - 2010)

▶(on 11-Jan-2012 Art. 46, par. (2), letter B. in Chapter V regulated by Art. 31, par. (1), letter B. in Chapter VI in Regulations 2010)

(3) Within 45 days from receiving a complete notification of a merger case, the Competition Council will decide whether to commence an investigation, when it is found that the notified merger falls under the scope of this law, raises serious doubts concerning compatibility with a

normal competitive environment and such doubts could not be removed according to provisions under par. (2) letter b).

(4) Within 5 months at the most from receiving a complete notification of a merger case, for which the Competition Council decided to start an investigation because of doubts concerning compatibility with a normal competitive environment, the Competition Council will:

a) issue a decision to declare the merger incompatible with a normal competitive environment, as it raises significant obstacles for effective competition on the Romanian market or on a significant part thereof, especially because of the creation or consolidation of a dominant position, according to provisions in art. 12;

▶ (on 11-Jan-2012 Art. 46, par. (4), letter A. in Chapter V regulated by Art. 30, par. (3), letter C. in Chapter VI in **Regulations 2010**)

b) issue an authorization decision if the merger does not raise significant obstacles for effective competition on the Romanian market or on a significant part thereof, especially because a dominant position is created or consolidated, in the sense of art. 12;

▶ (on 05-Aug-2011 Art. 46, par. (4), letter B. in Chapter V regulated by item 2. in **Guidelines - 2010**)

c) issue a decision establishing the obligations and/or conditions which must be met so that the undertakings fulfil their commitments so that the merger is compatible with a normal competitive environment.

▶ (on 05-Aug-2011 Art. 46, par. (4), letter C. in Chapter V regulated by item 2. in **Guidelines - 2010**)

▶ (on 11-Jan-2012 Art. 46, par. (4), letter C. in Chapter V regulated by Art. 31, par. (1), letter B. in Chapter VI in **Regulations 2010**)

(5) If the Competition Council takes no decision within the time limits stipulated under par. (2)-(4), the notified merger may take place.

(6) In case the notification of a merger requires supplementation, the time limits provided for under pars. (1)-(4) begin as of the date the parties supplied the Competition Council the information requested in order to complete the notification.

(7) The Competition Council may establish, by regulation, a simplified procedure to analyze some categories of mergers.

▶ (on 05-Aug-2010 Art. 46, par. (7) in Chapter V regulated by appendix I in **Regulations 2010**)

▶ (on 05-Aug-2010 Art. 46, par. (7) in Chapter V regulated by appendix II in **Regulations 2010**)

▶ (on 05-Aug-2010 Art. 46, par. (7) in Chapter V regulated by Chapter III in **Regulations 2010**)

(8) In the case of investigations and decisions taken according to provisions under art. 26 par. (1) letters a) and b), concerning a possible infringement of art. 15, the investigated merger is not notified, the Competition Council will analyse and make a decision, under such circumstances, as regards the compatibility of the merger with a normal competitive environment.

▶ (on 05-Aug-2010 Art. 46 in Chapter V amended by Art. I, item 37. in **Emergency ordinance 75/2010**)

(9) In cases when an operation to take over the control of undertakings or assets raises risks for the national security, the Government, at the proposal of the Supreme Defence Council of the Country, will issue a decision whereby this is forbidden, in compliance with the competence of the European Commission in this area. The Competition Council will inform the Supreme Defence Council of the Country concerning the mergers which are notified thereto, which may be analysed from a national security standpoint.

►(on 14-Jul-2011 Art. 46, par. (8) in Chapter V completed by de Art. I, item 26. in Law 149/2011)

☐**Art. 46¹**

☐**(1)Should the Competition Council find that a merger is already put into effect, having been declared incompatible with a normal competitive environment, the Council may:**

a)request the undertakings to dissolve the newly-created entity, especially by dissolving the merger or by the cessation of all shares and assets acquired, so as to restore the situation before the merger. If, by the dissolving the newly-created entity, the situation before the merger cannot be restored, the Competition Council may impose any other measure appropriate for restoring the previous situation, as much as possible;

b)impose any other appropriate measures to ensure that the undertakings in question take the measures to restore the previous situation as provided for in its decision.

(2) the Competition Council may also act according to par. (1) letters a) and b) when it is found that the merger was put into effect in violation of a requirement imposed through a decision adopted according to provisions under art. 46 par. (4) letter c).

☐**Art. 46²**

(1)Throughout the procedure to investigate the possible anticompetitive practice, the undertakings under investigation may formulate proposals of commitments, in order to remove the situation which led to the commencement of the investigation.

(2)When the Competition Council intend to accept commitments proposed by the parties, they will publish a summary of the case and the main contents of the proposal commitments, and third parties can express their opinions within the timeframe set by the competition authority.

(3)By decision, the Competition Council make the commitments proposed by the undertakings binding, provided that they are sufficient for the safeguarding of competition and that the fulfilment thereof will lead to the removal of the situation which triggered the commencement of the investigation. The decision of the Competition Council may be adopted on a determined period and may conclude, without hearing the stakeholders, that there are no further reasons for the intervention of the competition authority.

►(on 14-Jul-2011 Art. 46², par. (3) in Chapter V amended by Art. I, item 27. in Law 149/2011)

(4)Should the Competition Council find that the commitments fail to meet the requirements under par. (3), they will inform, in writing, the undertakings as regards the reasons for which commitments were not accepted and will continue the investigation procedure.

☐**(5)Should the investigation be closed, as per provisions in par. (3), the Competition Council may, upon request or ex officio, reopen the investigation procedure, when:**

a)an essential change occurs concerning any of the deeds on which the decision was based;

b)the undertakings act contrary to assumed commitments;

c)the decision was based on incomplete, inaccurate or mistaken information, supplied by the parties.

(6)The undertakings may formulate proposals of commitments in merger cases in order to render them compatible with a normal competitive environment, as per provisions in art. 46. Provisions in paragraphs (2) and (4) apply accordingly.

(7) The Competition Council will decide, through guidelines, the requirements, deadlines and procedure for the acceptance and assessment of commitments proposed by the parties.

▶(on 05-Aug-2010 Art. 46 in Chapter V completed by Art. I, item 38. in Emergency ordinance 75/2010)

☐Art. 47

▶(on 04-Feb-2011 Art. 47 in Chapter V see enforcement references in Guidelines - 2011)

(1) The Competition Council may impose any interim measures as deemed necessary, prior to issuing a decision as per provisions under art. 45, in case of emergency determined by risk of serious and irrecoverable damage of competition, should the Council find, after the first assessment, the existence of anticompetitive deeds, prohibited by the law and which must be eliminated immediately.

(2)Prior to adopting any interim measures, the parties may present their point of view, in writing. Upon the request of the parties, the Competition Council will hear the arguments thereof, in the Plenum.

(3)A decision adopted according to provisions under par. (1) is enforced on a determined period and this period can be renewed by the Competition Council provided that this is necessary and appropriate.

☐(4) The Competition Council may impose appropriate interim measures for restoring an effective competitive environment if:

▶(on 11-Jan-2012 Art. 47, par. (4) in Chapter V regulated by Art. 31, par. (1), letter A. in Chapter VI in Regulations 2010)

a)the merger was put into effect in violation of provisions under art. 15 pars. (6) and (8) and no decision has been adopted thus far concerning the compatibility of the merger with a normal competitive environment;

b) the merger was put into effect in violation of a requirement or obligation imposed through a decision adopted according to provisions under art. 46 par. (2) letter b) and par. (4) letter c);

c) the merger was put into effect and a decision of incompatibility with a normal competitive environment was issued, according to provisions under art. 46 par. (4) letter a).

(5) The Competition Council will set, through guidelines the requirements, deadlines and procedure for adopting interim measures.

▶(on 05-Aug-2010 Art. 47 in Chapter V amended by Art. I, item 39. in Emergency ordinance 75/2010)

☐Art. 47¹

(1)The decisions adopted by the Competition Council for the application of articles 9, 15, 45 and 46 will be notified to the parties immediately; these decisions can be appealed in administrative procedure before Bucharest Court of Appeal within 30 days since notification.

(2)The court may impose, upon request, the suspension of execution of the appealed decision. In case of fines, the suspension will be applied solely provided that a bail is paid according to provisions laid down by Government Ordinance 92/2003 on The fiscal procedure code, republished, with further amendments and completions as regards debts to the budget.

▶(on 08-Aug-2011 Art. 47¹, par. (2) in Chapter V corrected by Correction 2011)

(3)The order for the commencement of an investigation according to the law, may be appealed solely simultaneously with the decision made subsequent to the investigation.

▶(on 05-Aug-2010 Art. 47 in Chapter V completed by de Art. I, item 40. in Emergency ordinance 75/2010)

▶(on 14-Jul-2011 Art. 48 in Chapter V repealed by Art. I, item 29. in Law 149/2011)

CHAPTER VI: Sanctions

▶(on 22-Oct-2010 Chapter VI see enforcement references in Regulations 2010)

Art. 49

Any agreements or decisions prohibited by articles 5 and 6 herein , as well as by articles 101 and 102 in the Treaty on the Functioning of the European Union are null and void, i.e. any agreements, conventions or contract provisions concerning anticompetitive practices, as well as any acts which violates the provisions under article 9 herein.

▶(on 14-Jul-2011 Art. 49 in Chapter VI amended by Art. I, item 30. in Law 149/2011)

Art. 50

▶(on 11-Jan-2012 Art. 50 in Chapter VI regulated by Art. 30, par. (5), letter A. in Chapter VI in Regulations 2010)

▶(on 11-Jan-2012 Art. 50 in Chapter VI regulated by Art. 30, par. (1) in Chapter VI in Regulations 2010)

▶(on 29-Dec-2011 Art. 50 in Chapter VI regulated by item 4. in Chapter IV in Guidelines - 2010)

▶(on 29-Dec-2011 Art. 50 in Chapter VI regulated by item 3. in Chapter IV in Guidelines - 2010)

▶(on 29-Dec-2011 Art. 50 in Chapter VI regulated by item II., item 2., letter C. in Chapter II in Guidelines - 2010)

▶(on 29-Dec-2011 Art. 50 in Chapter VI regulated by item II., item 2., letter B. in Chapter II in Guidelines - 2010)

▶(on 29-Dec-2011 Art. 50 in Chapter VI regulated by item II., item 2., letter A. in Chapter II in Guidelines - 2010)

▶(on 10-Sep-2010 Art. 50 in Chapter VI regulated by item 1. in Chapter IV in Guidelines - 2010)

▶(on 10-Sep-2010 Art. 50 in Chapter VI regulated by item I.. in Chapter II in Guidelines - 2010)

The following deeds constitute offences and may be sanctioned with a fine of between 0.1% to 1% of the aggregate turnover of the financial year prior to the sanctioning of the following deeds committed purposefully or by negligence by undertakings or associations of undertakings:

i:▶(on 14-Jul-2011 Art. 50 in Chapter VI amended by Art. I, item 31. in Law 149/2011)

a)submission of incorrect, incomplete or misleading information concerning a request, a confirmation, a notification or a completion thereto, according to provisions under art. 15;

▶(on 11-Jan-2012 Art. 50, letter A. in Chapter VI regulated by Art. 28 in Chapter V, section IV in Regulations 2010)

b) submission of incorrect, incomplete or misleading information or incomplete documents as requested by provisions under art. 35 par. (1) letter a);

▶(on 11-Jan-2012 Art. 50, letter B. in Chapter VI regulated by Art. 28 in Chapter V, section IV in Regulations 2010)

c) submission of inaccurate or misleading information, in response of a request addressed according to provisions under art. 35 par. (2);

▶(on 11-Jan-2012 Art. 50, letter C. in Chapter VI regulated by Art. 28 in Chapter V, section IV in Regulations 2010)

d) submission of incomplete information, documents, business records and books during searches carried out according to provisions under art. 36;

►(on 10-Sep-2010 Art. 50, letter D. in Chapter VI regulated by item II., item 3. in Chapter II in [Guidelines - 2010](#))

e) the refusal to accept an inquiry conducted according to provisions under art. 36.

►(on 05-Aug-2010 Art. 50 in Chapter VI amended by Art. I, item 42. in [Emergency ordinance 75/2010](#))

►(on 10-Sep-2010 Art. 50, letter E. in Chapter VI regulated by item II., item 3. in Chapter II in [Guidelines - 2010](#))

Art. 50¹

►(on 29-Dec-2011 Art. 50¹ in Chapter VI regulated by item 2. in Chapter IV in [Guidelines - 2010](#))

►(on 29-Dec-2011 Art. 50¹ in Chapter VI regulated by item II., item 2., letter C. in Chapter II in [Guidelines - 2010](#))

►(on 29-Dec-2011 Art. 50¹ in Chapter VI regulated by item II., item 2., letter B. in Chapter II in [Guidelines - 2010](#))

►(on 29-Dec-2011 Art. 50¹ in Chapter VI regulated by item II., item 2., letter A. in Chapter II in [Guidelines - 2010](#))

(1) The following deeds by central and local public authorities and institutions are deemed offences and will be sanctioned by fines between 1,000 lei and 20,000 lei:

►(on 11-Jan-2012 Art. 50¹, par. (1) in Chapter VI regulated by Art. 30, par. (2) in Chapter VI in [Regulations 2010](#))

a) Submission, on purpose or by neglect, of incorrect, incomplete or misleading information or incomplete documents or failure to submit requested information and documents, according to provisions under art. 35 par. (1) letter b);

►(on 11-Jan-2012 Art. 50¹, par. (1), letter A. in Chapter VI regulated by Art. 28 in Chapter V, section IV in [Regulations 2010](#))

b) Submission, on purpose or by neglect, of inaccurate or misleading information, in response of a request addressed according to provisions under art. 35 par. (2).

►(on 11-Jan-2012 Art. 50¹, par. (1), letter B. in Chapter VI regulated by Art. 28 in Chapter V, section IV in [Regulations 2010](#))

(2) If, either on purpose or by neglect, the requested information is not submitted after the deadline set by the Competition Council, they can impose a fine of up to 5,000 lei for every day of delay to the manager of the institution or of the central or local public authority.

►(on 14-Jul-2011 Art. 50¹ in Chapter VI amended by Art. I, item 32. in [Law 149/2011](#))

►(on 11-Jan-2012 Art. 50¹, par. (2) in Chapter VI regulated by Art. 28 in Chapter V, section IV in [Regulations 2010](#))

►(on 11-Jan-2012 Art. 50¹, par. (2) in Chapter VI regulated by Art. 31, par. (3) in Chapter VI in [Regulations 2010](#))

Art. 51

►(on 11-Jan-2012 Art. 51 in Chapter VI regulated by Art. 33 in Chapter VI in [Regulations 2010](#))

►(on 11-Jan-2012 Art. 51 in Chapter VI regulated by Art. 30, par. (3) in Chapter VI in [Regulations 2010](#))

►(on 10-Sep-2010 Art. 51 in Chapter VI regulated by [Guidelines - 2010](#))

►(on 07-Sep-2009 Art. 51, par. (2) in Chapter VI regulated by [Guidelines - 2009](#))

(1) The following deeds, committed either on purpose or by neglect by undertakings or associations of undertakings, are deemed offences and shall be sanctioned by fines between 0.5% and 10 % of the aggregate turnover of the financial year prior to the sanctioning

►(on 14-Jul-2011 Art. 51, par. (1) in Chapter VI amended by Art. I, item 33. in [Law 149/2011](#))

a) violations of the provisions of art. 5 and 6 herein, articles 101 and 102 in the Treaty on the Functioning of the European Union;

b) failure to notify a merger, according to provisions under art. 15 pars. (1) and (2), prior to putting it into effect, except for the case in which

the provisions under art. 15 par. (7) apply or an exemption has been granted according to art. 15 par. (8);

▶(on 11-Jan-2012 Art. 51, par. (1), letter B. in Chapter VI regulated by Art. 30, par. (5), letter B. in Chapter VI din Regulations 2010)

c) putting into effect a merger in violation of provisions under art. 15 par. (6)-(8);

▶(on 11-Jan-2012 Art. 51, par. (1), letter C. in Chapter VI regulated by Art. 30, par. (5), letter B. in Chapter VI in Regulations 2010)

d) putting into effect a merger, declared incompatible by a decision of the Competition Council, according to provisions in art. 46 par. (4) letter a);

▶(on 14-Jul-2011 Art. 51, par. (1), letter D. in Chapter VI amended by Art. I, item 33. in Law 149/2011)

▶(on 11-Jan-2012 Art. 51, par. (1), letter D. in Chapter VI regulated by Art. 30, par. (5), letter B. in Chapter VI in Regulations 2010)

e) failure to comply with an obligation or condition imposed through decision issued according to this law.

▶(on 11-Jan-2012 Art. 51, par. (1), letter E. in Chapter VI regulated by Art. 30, par. (5), letter B. in Chapter VI din Regulations 2010)

(2) If the violation by an association of undertakings concerns the activity of its members, the fine imposed cannot exceed 10% of the aggregate turnover of every member active on the market affected by the violation.

(3) As regards the offence in par. (1) letter a), i.e. the violation of provisions under art. 5 herein and the provisions in art. 101 in the Treaty on the Functioning of the European Union, the Competition Council will establish, by guidelines, the terms and conditions, and the criteria to apply a leniency policy which may lead to exoneration of pecuniary liability.

▶(on 05-Aug-2010 Art. 51 in Chapter VI amended by Art. I, item 44. in Emergency ordinance 75/2010)

Art. 51¹

(1) Through exception from articles 50 and 51 par. (1) herein, if the turnover in the financial year previous to the sanction cannot be determined, one will consider the turnover for the financial year when the undertaking or association of undertakings registered the turnover, year immediately prior to the reference year in order to determine the turnover in view of imposing the sanction.

▶(on 05-Aug-2010 Art. 51¹, par. (1) in Chapter VI regulated by Art. 30, par. (4) in Chapter VI din Regulations 2010)

▶(on 10-Sep-2010 Art. 51¹, par. (1) in Chapter VI regulated by item 1. in Chapter IV din Guidelines - 2010)

(2) Through exception from articles 50 and 51 par. (1) herein and art. 8 in Government Ordinance 2/2001 on the legal regime of offences, approved with amendments and completions through Law 180/2002, and further amendments and completions, in the case of the newly-founded undertaking or association of undertakings, which did not register its turnover in the year prior to the sanction, the following fines will be imposed on the entity:

▶(on 11-Jan-2012 Art. 51¹, par. (2) in Chapter VI regulated by Art. 30, par. (5) in Chapter VI din Regulations 2010)

a) 10,000 lei to 1,000,000 lei, in case of violations under art. 50;

▶(on 14-Jul-2011 Art. 51¹, par. (2), letter A. in Chapter VI amended by Art. I, item 34. in Law 149/2011)

▶(on 29-Dec-2011 Art. 51¹, par. (2), letter A. in Chapter VI regulated by item II., item 2., letter A. in Chapter II din Guidelines - 2010)

►(on 29-Dec-2011 Art. 51¹, par. (2), letter A. in Chapter VI regulated by item II., item 2., letter B. in Chapter II din **Guidelines - 2010**)

►(on 29-Dec-2011 Art. 51¹, par. (2), letter A. in Chapter VI regulated by item II., item 2., letter C. in Chapter II din **Guidelines - 2010**)

►(on 29-Dec-2011 Art. 51¹, par. (2), letter A. in Chapter VI regulated by item 4. in Chapter IV din **Guidelines - 2010**)

b) 15,000 lei to 2,500,000 lei, in case of violations under art. 51 par. (1).

►(on 14-Jul-2011 Art. 51¹, par. (2), letter B. in Chapter VI amended by Art. I, item 34. in **Law 149/2011**)

Art. 52

►(on 11-Jan-2012 Art. 52 in Chapter VI regulated by Art. 33 in Chapter VI in **Regulations 2010**)

►(on 10-Sep-2010 Art. 52 in Chapter VI regulated by Chapter III din **Guidelines - 2010**)

►(on 10-Sep-2010 Art. 52 in Chapter VI regulated by item IV.. in Chapter II in **Guidelines - 2010**)

►(on 10-Sep-2010 Art. 52 in Chapter VI regulated by item III.. in Chapter II in **Guidelines - 2010**)

►(on 10-Sep-2010 Art. 52 in Chapter VI regulated by Chapter I din **Guidelines - 2010**)

(1) The individual sanction for any of the specific offences stipulated under articles 50, 50¹, 51 and 51¹ will be decided taking into account the seriousness and the duration of the deed and its consequences on competition. The Competition Council, through the guidelines adopted, establish the other elements depending on which individual sanctions are imposed, as well as their categories.

►(on 10-Sep-2010 Art. 52, par. (1) in Chapter VI regulated by item I.. in Chapter II in **Guidelines - 2010**)

(2) In case of offences provided for in art. 51 par. (1), if, after receiving the statement of objection and exercising the right of access to the case file, under the provisions in art. 44 or during hearings, the undertaking admits having committed an anticompetitive deed and, wherever possible, proposes remedies which lead to the removal of the cause for the violation, this will be deemed mitigating circumstances and will determine a reduction of the fine by 10% up to 30% from the base level determined according with the guidelines adopted in par. (1), including cases when this is determined as the minimum level provided for by the law.

►(on 14-Jul-2011 Art. 52, par. (2) in Chapter VI amended by Art. I, item 35. in **Law 149/2011**)

Art. 53

If, within 45 days after decision notification, the undertaking concerned does not comply with the measures decided by the Competition Council under the provisions of this law, the Competition Council may impose the maximum fine stipulated in articles 51 and 51¹.

►(on 05-Aug-2010 Art. 53 in Chapter VI amended by Art. I, item 47. in **Emergency ordinance 75/2010**)

Art. 54

(1) The Competition Council may issue a decision to force the undertakings or the associations of undertakings to pay comminatory fines, of up to 5% of the daily average turnover of the financial year prior to the sanctioning, for each day of delay, calculated from the date set up in the decision, in order to determine them to:

►(on 11-Jan-2012 Art. 54, par. (1) in Chapter VI regulated by Art. 31, par. (1) in Chapter VI din **Regulations 2010**)

a) cease the violation of provisions in articles 5 and 6 herein, as well as provisions in articles 101 and 102 in the Treaty on the Functioning of the European Union and observe the measures imposed through the decision;

b)observe a decision to impose interim measures, according to provisions in art. 47;

▶(on 11-Jan-2012 Art. 54, par. (1), letter B. in Chapter VI regulated by Art. 31, par. (2), letter B. in Chapter VI in Regulations 2010)

c)observe a commitment which becomes binding through a decision made according to provisions in art. 46² par. (3);

d)observe conditions and / or obligations imposed through a decision made according to provisions art. 46 par. (2) letter b) and par. (4) letter c);

▶(on 11-Jan-2012 Art. 54, par. (1), letter D. in Chapter VI regulated by Art. 31, par. (2), letter B. in Chapter VI in Regulations 2010)

e)submit complete and correct information and documents requested as per art. 35 par. (1) letter a);

▶(on 11-Jan-2012 Art. 54, par. (1), letter E. in Chapter VI regulated by Art. 28 in Chapter V, section IV in Regulations 2010)

▶(on 11-Jan-2012 Art. 54, par. (1), letter E. in Chapter VI regulated by Art. 31, par. (2), letter B. in Chapter VI in Regulations 2010)

f)allow the search mentioned under art. 36.

▶(on 11-Jan-2012 Art. 54, par. (1), letter F. in Chapter VI regulated by Art. 31, par. (2), letter B. in Chapter VI in Regulations 2010)

☐(2)By exception from the provisions in par. (1):

▶(on 11-Jan-2012 Art. 54, par. (2) in Chapter VI regulated by Art. 31, par. (2) in Chapter VI in Regulations 2010)

a)in case the turnover in the financial year prior to the sanction cannot be determined, one will consider the turnover for the financial year when the undertaking or association of undertakings registered the turnover, year immediately prior to the reference year in order to determine the turnover in view of imposing the sanction;

b) in the case of the newly-founded undertaking or association of undertakings, which did not register its turnover in the year prior to the sanction, a fine between 500 lei to 10,000 lei will be imposed, in the case of par. (1) letters a)- d), i.e. a fine between 300 lei and 7.000 lei, in the case of par. (1) letters e) and f).

▶(on 05-Aug-2010 Art. 54 in Chapter VI amended by Art. I, item 48. in Emergency ordinance 75/2010)

☐Art. 55

(1) The offences stipulated herein will be assessed and sanctioned by the Competition Council Plenum or its commissions, or by competition inspectors.

(2) The sanctions concerning the offences stipulated in art. 50 letters d) and e) are enforced by competition inspectors.

▶(on 05-Aug-2010 Art. 55, par. (2) in Chapter VI amended by Art. I, item 49. in Emergency ordinance 75/2010)

(3) The sanctions concerning the offences stipulated in art. 50 letters a)- c), art. 50¹ and art. 51 par. (1) letters d) and e), and the comminatory fines stipulated in art. 54 are enforced by the Competition Council commission, by the same decision for the offence or the incidence of art. 54 par. (1).

▶(on 05-Aug-2010 Art. 55, par. (3) in Chapter VI amended by Art. I, item 49. in Emergency ordinance 75/2010)

(4) The sanctions concerning the offences stipulated in art. 51 par. (1) letter a)-c) are enforced by the Competition Council Plenum or by the commission, accordingly, by the same decision for the offence.

▶(on 14-Jul-2011 Art. 55, par. (4) in Chapter VI amended by Art. I, item 36. in Law 149/2011)

(5) The decisions taken under par. (3) and (4) may be appealed before the Bucharest Court of Appeal, the Litigation Division, within 30 days from notice.

►(on 14-Jul-2011 Art. 55, par. (6) in Chapter VI repealed by Art. I, item 37. in [Law 149/2011](#))

Art. 56

(1)The offences stipulated in art. 50 letters d) and e) of this law fall under the provisions of Government Ordinance [2/2001](#), approved with amendments and completions through Law [180/2002](#), with further amendments and completions, except for articles 5, 8, 28, 29, 32 and 34 in Government Ordinance [2/2001](#), approved with amendments and completions through Law [180/2002](#), with further amendments and completions.

(2)The minutes through which sanctions are imposed, according to provisions in art. 55 par. (2) and Emergency Government Ordinance [117/2006](#), approved with amendments and completions through Law. [137/2007](#), may be appealed before the Court of Sector 1, within 15 days from notice. The decision of the court can be appealed, in administrative procedure, within 15 days since notice.

►(on 14-Jul-2011 Art. 56, par. (2) in Chapter VI amended by Art. I, item 38. in [Law 149/2011](#))

Art. 57

(1)Decisions issued by the Competition Council in enforcing this law will be transmitted to the parties involved by the Competition Council and will be published in the Official Journal of Romania, Part I, at the expense of the perpetrator or of the applicant, as the case may be, or on the Competition Council's website.

(2) The legitimate interests of the concerned undertakings will be taken into consideration when publishing the decisions, so that no business secret be disclosed.

►(on 05-Aug-2010 Art. 57 in Chapter VI amended by Art. I, item 51. in [Emergency ordinance 75/2010](#))

Art. 58

►(on 05-Aug-2010 Art. 58 in Chapter VI regulated by Art. 32 in Chapter VI in [Regulations 2010](#))

(1)The right of the Competition Council to impose fines for the violation of this law will be limited as follows:

- a)3 years in the case of any of the offences under articles 50 and 50¹;**
- b)5 years in the case of the other offences herein.**

►(on 14-Jul-2011 Art. 58, par. (1) in Chapter VI amended by Art. I, item 39. in [Law 149/2011](#))

(2)The limitation of the right to action of the Competition Council starts on the date of the offence. In the case of continued or repeated violation, the limitation starts on the date of the last anticompetitive deed or act in question.

►(on 05-Aug-2010 Art. 58 in Chapter VI amended by Art. I, item 52. in [Emergency ordinance 75/2010](#))

Art. 59

►(on 05-Aug-2010 Art. 59 in Chapter VI regulated by Art. 32 in Chapter VI in [Regulations 2010](#))

(1) Any action undertook by the Competition Council in view of a preliminary inquiry or in view of commencing an investigation relative to a particular violation of the law shall interrupt the course of the statute of limitations provided for under art. 58. The interruption of the statute of limitations shall enter into effect as of the date the action taken by the Competition Council was transmitted to at least one undertaking or association of undertakings who was involved in the commitment of the law violation.

(2) The actions which can be undertaken by the Competition Council and which interrupt the course of the statute of limitations may be, among others, the following:

- a) requests of information, in writing;
 - b) order of the President of the Competition Council to commence an investigation;
 - c) commencement of legal procedures.
- (3) the interruption of the statute of limitations produces effects over all undertakings or associations of undertakings involved in the commitment of the law violation.
- (4) In case of interrupting of the statute of limitation, a new term, of a similar duration, begins as of the date the Competition Council has undertaken one of the actions mentioned under par. (2). The statute of limitation shall expire no later than the day on which a period equal to the double of statute of limitations elapses, applicable to the commitment of the violation at issue, in case the Competition Council did not impose any of the sanctions provided for by this law.

Art. 60

(1) When an individual participates with fraudulent intent and in a decisive way in the conceiving, the organization or the realization of any of the practices prohibited under art. 5 par. (1) which are not exemptions according to art. 5 par. (2) will be considered a criminal offence and will be convicted to jail from 6 months to 3 years or will be fined and rights will be prohibited.

▶ (on 14-Jul-2011 Art. 60, par. (1) in Chapter VI amended by Art. I, item 40. in [Law 149/2011](#))

(2) The provisions in par. (1) do not apply to the practice prohibited by art. 5 par. (1) letter f) when this is carried out by the agreement of participants to distort the granting price, in which case specific area regulations apply.

▶ (on 14-Jul-2011 Art. 60, par. (2) in Chapter VI amended by Art. I, item 40. in [Legea 149/2011](#))

(3) The court may decide that its irrevocable decision be published in the press, at the guilty party's expense.

Art. 61

(1) Apart from the sanctions enforced in keeping with the provisions of this law, individuals and/or legal entities reserve the right to sue for the complete remedy of the damage caused by the anticompetitive practices prohibited under this law or articles 101 and 102 in the Treaty on the Functioning of the European Union.

(2) If goods or services are purchased at excessive prices, one cannot consider that damage incurred because of the fact that the good or services were resold.

(3) The undertaking benefiting from fine-immunity is not held liable alone for the damage incurred through its participation in an anticompetitive practice prohibited by art. 5 herein, as well as article 101 in the Treaty on the Functioning of the European Union, as this practice is sanctioned by the competition authority.

▶ (on 14-Jul-2011 Art. 61, par. (3) in Chapter VI amended by Art. I, item 41. in [Law 149/2011](#))

(4) Whenever there is a decision of the Competition Council which sanctions an anticompetitive practice, in order to solve the requests for damages, courts may request the Competition Council the documents forming the case file based on which the decision was taken. To this purpose, receiving these documents, courts can ensure confidentiality of business information, as well as other information deemed confidential.

(5) Individuals or companies, which consider that they suffer damages because of an anticompetitive practice prohibited by this law, can submit a request for remedies within 2 years since the final decision or from a final and irrevocable court decision.

▶ (on 14-Jul-2011 Art. 61, par. (5) in Chapter VI amended by Art. I, item 41. in [Law 149/2011](#))

(5¹) Consumers, legally-registered consumer associations, professional and employers' associations can take legal actions for their members affected by an anticompetitive practice, based on their responsibilities and the power granted in this respect, accordingly.

▶ (on 14-Jul-2011 Art. 61, par. (5) in Chapter VI completed by de Art. I, item 42. in [Law 149/2011](#))

(6) The Competition Council can submit observations to national courts concerning aspects related to the application of articles 5 and 6 in this law, as well as provisions in articles 101 and 102 in the Treaty on the Functioning of the European Union, under the conditions laid down by [Civil procedure code](#).

(7) In all cases in which national courts apply directly the provisions in articles 101 and 102 in the Treaty on the Functioning of the European Union, after the parties are notified as regards the possibility to appeal, they will immediately submit a copy of the decision to the European Commission, by means of the Competition Council.

▶ (on 05-Aug-2010 Art. 61 in Chapter VI amended by Art. I, item 54. in [Emergency ordinance 75/2010](#))

Art. 62

▶ (on 11-Jan-2012 Art. 62 in Chapter VI regulated by appendix II din [Regulations 2010](#))

Any person who uses or discloses documents or information having business secret character, received or acknowledged during work or work-related duties, for other purposes than those stipulated in this law will be held liable according to the criminal law, and may be forced to remedy the damages caused.

CHAPTER VII: Common and Final Provisions

▶ (on 05-Aug-2010 Chapter VII regulated by part 1 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 63 in Chapter VII repealed by Art. I, item 55. in [Emergency ordinance 75/2010](#))

Art. 64

▶ (on 05-Aug-2010 Art. 64 in Chapter VII regulated by part 2 in [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 64 in Chapter VII regulated by part 2 din [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 64 in Chapter VII regulated by part 2 din [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 64 in Chapter VII regulated by part 2 din [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 64 in Chapter VII regulated by part 2 din [Guidelines - 2010](#))

▶ (on 05-Aug-2010 Art. 64 in Chapter VII regulated by part 2 din [Guidelines - 2010](#))

(1) The turnover referred to in art. 14 is the total of the revenues achieved by the concerned undertaking through sales of products and/or services during the previous fiscal year, from which shall be deducted the amounts representing fiscal obligations and the accounted value of exports either directly or through a mandate, including intra-community deliveries.

▶ (on 05-Aug-2010 Art. 64, par. (1) in Chapter VII regulated by part 2 in [Guidelines - 2010](#))

(2) In case merger is put into effect as provided for by art. 10 par. (1) letter b), by purchasing of assets, from the turnover established under par. (1) only the amount relating to the assets constituting the object of the transaction will be considered.

▶ (on 05-Aug-2010 Art. 64, par. (2) in Chapter VII regulated by part 2 din [Guidelines - 2010](#))

(3) . If two or several transactions of the kind mentioned in par. (2) take place between the same individuals and/or legal entities, they shall

be considered a single merger, concluded on the date of the last transaction.

▶(on 05-Aug-2010 Art. 64 in Chapter VII amended by Art. I, item 56. in [Emergency ordinance 75/2010](#))

▶(on 05-Aug-2010 Art. 64, par. (3) in Chapter VII regulated by part 2 in [Guidelines - 2010](#))

▶(on 05-Aug-2010 Art. 64, par. (3) in Chapter VII regulated by part 2 in [Guidelines - 2010](#))

▶(on 05-Aug-2010 Art. 64, par. (3) in Chapter VII regulated by part 2 in [Guidelines - 2010](#))

Art. 65

▶(on 05-Aug-2010 Art. 65 in Chapter VII regulated by part 2 in [Guidelines - 2010](#))

The turnover herein will be replaced:

▶(on 14-Jul-2011 Art. 65 in Chapter VII amended by Art. I, item 43. din [Law 149/2011](#))

a)for credit or financial institutions, by the total of revenues defined through guidelines adopted by the Competition Council, after the deduction of taxes and related fees;

b) or insurance companies, by the value of the issued gross premiums which will include all amounts collected or to be collected according to the insurance contracts concluded by them or on their behalf, , including outgoing reinsurance premiums, after deducting taxes and fees identified by the Competition Council through the guidelines.

▶(on 05-Aug-2010 Art. 65 in Chapter VII amended by Art. I, item 57. din [Emergency ordinance 75/2010](#))

I. a credit institution is:

a) an entity whose business is to attract deposits or other reimbursable funds from the public and granting credits on its own behalf;

b) an entity, other than the one under letter a), which issues payment means as e-cash;

II. Financial institution means an entity, other than a credit institution, whose core business is to gain shares in other entities or carry out one or several of the following activities:

a) credit granting, including inter alia: consumption credits, mortgage, factoring with or without regression, financing commercial transactions, including contractual transactions;

b) leasing;

c) payment services as defined under art. 8 in Government Emergency Ordinance [113/2009](#) on payment services;

d) issuing and managing other payment means, such as cheque files, bills of exchange and promissory notes which do not fall under letter c);

e) issuing bonds and assuming commitments;

f) transaction of their own and / or customers' behalf, according to the law, with:

1. Tools of the monetary market such as: cheque files, bills of exchange and promissory notes, deposit certificates;

2. Foreign currency;

3. Future contracts and financial options;

4. Tools based on the exchange rate and the interest rate;

5. Securities and other transferrable financial tools;

g) participation in the emission of securities and other financial tools, through the subscription and placement thereof or through the placement of related services;

h) consultancy services related to capital structure, business strategy and other commercial affairs-related aspects, mergers& acquisitions services and provision of consultancy services;

i) portfolio management and related consultancy;

j) financial tools custody and management;

k) inter-bank market intermediary services.

P&L	
1. Turnover from financial activities (non-consolidate profit and loss account)	3 000
2. Turnover from insurance activities [companies listed under art. 65 in the law] (issued gross premiums)	300
3. Turnover from industrial activities [companies listed under item 164]	2 000
4. Deduction of dividends and other income from companies listed under item 164 companies 2 and 3	200
Overall turnover of the financial holding and of its group	5 100

Art. 66

▶(on 05-Aug-2010 Art. 66 in Chapter VII regulated by part 2 in [Guidelines - 2010](#))

For the purposes of art. 14, but without violating the provisions of art. 64 pars. (2) and (3), if any of the undertakings referred to in applying art. 14 is part of a group of undertakings, its turnover will be the

aggregate turnover of the particular group, according to the group's consolidated balance sheet.

▶(on 05-Aug-2010 Art. 66 in Chapter VII amended by Art. I, item 58. in [Emergency ordinance 75/2010](#))

a: undertaking¹⁷

¹⁷For the chart purposes one considers that the joint venture is itself an undertaking according to the criteria set out under item 140 (control take-over by a joint venture operating on the same market).

b: Its subsidiaries, companies owned jointly with third parties (b3) and their subsidiaries (b1 and b2)

c: Its holding companies and the holding companies thereof (c1)

d: Other subsidiaries of holding companies of the undertaking

e: Companies owned jointly by two (or more) companies in the group.

x: Third party

▶(on 05-Aug-2010 Art. 67 in Chapter VII repealed by Art. I, item 59. in [Emergency ordinance 75/2010](#))

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OBSERVATION:

*) Republished based on art. III in Law [538/2004](#) on the amendment and completion of the Competition Law [21/1996](#), published in the Official Journal of Romania, Part I, issue 1.130 of November 30th, 2004, texts received new page numbers.

Law [21/1996](#) published in the Official Journal of Romania, Part I, issue 88 din of April 30th 1996 and amended through Government Emergency Ordinance [121/2003](#) on the amendment and completion of the Competition Law [21/1996](#), published in the Official Journal of Romania, issue 875 of December 10th 2003, approved with amendments and completions through Law [184/2004](#), published in the Official Journal of Romania, Part I, issue 461 of May 24th 2004.

*) According to art. 1 in the Order of the President of the Competition Council 519/2004, published in the Official Journal of Romania, Part I, issue 1.271 of December 24th 2004, "Threshold reported to the turnover, provided for in art. 8 par. (1) in the Competition Law [21/1996](#), with further amendments and completions, is increased from 20 billion lei to 30 billion lei".

We quote hereunder art. II*) - VI in the Government Emergency Ordinance [121/2003](#) for the amendment and completion of the Competition Law [21/1996](#), approved with amendments and completions through Law [184/2004](#) and amended by Law [538/2004](#), articles which were not included in the republished form of Law [21/1996](#):

" - Art. II

(1)Remunerations listed in appendix VII/2b to Law [154/1998](#) concerning the system to establish salaries in the state sector and public dignitaries, with further amendment and completions, under items 34, 35 and 36 are replaced with the remunerations under items 16, 17 and 18 in the same appendix.

*) Subsequent to the amendments in art. II in the Government Emergency ordinance [121/2003](#) trough Law [184/2004](#) and Law [538/2004](#), the paragraphs in this article received new numbers.

Thus, paragraph (3) was repealed through Law [184/2004](#), par. (2¹)-(2⁴), introduced by Law [184/2004](#), became par. (3)-(6), and par. (2) was amended by Law [538/2004](#).

(2)The basic salaries of competition inspectors and of the secretary general of the Competition Council are set by resemblance with remunerations provided for by Government Emergency Ordinance [177/2002](#) on remuneration and other rights of magistrates, approved with amendments and completions by Law [347/2003](#), as follows: appendix 1 chapter A, item 11 – for higher competition inspector, item. 18 - for principal competition inspector, item 23 - for assistant

competition inspector and item 32 - for beginner competition inspector and from appendix 1 chapter B, item 1 – for the secretary general.

(3) The specialized staff of the Competition Council benefit accordingly from provisions in art. 30 in the Government Emergency Ordinance [177/2002](#), approved with amendments and completions by Law [347/2003](#).

(4) The staff of the Competition Council benefit from a confidentiality bonus of up to 15% of the basic salary. Staff categories, the percentage of bonus and the granting conditions are established by the order of the President of the Competition Council, according to the staff expenses grid approved for the institution.

(5) By exception from the provisions in art. 20 par. (1) in Law [154/1998](#), the provisions in pars. (3) and (4) apply accordingly to the members of the Competition Council Plenum.

(6) The members of the Competition Council Plenum and competition inspectors benefit from the rights established through rules applicable to public servants.

(7) Depending on the duties set by law for this institution, the staff of the Competition Office which is taken over by the Competition Council will be established on the basis of a memorandum of understanding which will be concluded among the Ministry of Public Finances, the Competition Office and the Competition Council within a period not exceeding 30 days as of the date this Emergency Ordinance enters into force. On the basis of this memorandum of understanding, the Competition Council will accordingly amend the Regulation of organization, operation and procedure of the Competition Council.

(8) The complaints and intimations set forth on the grounds of Law no. 21/1996, which are in the course of being determined by the Competition Office, and the ongoing investigations shall be taken over by the Competition Council, on the basis of a memorandum of understanding, within a period not exceeding 30 days as of the date this Emergency Ordinance enters into force.

(9) The Competition Council shall take over the personal and real estate which are administered or owned by the Competition Office, according to the activities and staff it took over through the memorandum of understanding which will be concluded by the Ministry of Public Finances, the Competition Office and the Competition Council within a period not exceeding 30 days as of the date this Emergency Ordinance enters into force.

- Art. III

(1) Within the Ministry of Public Finances, a specialized directorate general, and divisions within the regional units shall be set up, and they will mainly have the following main activity:

a) to apply, by the Ministry of Public Finance, as main state aid grantor, the legislation in the field of state aid;

b) to apply the legal provisions in matters of prices, for which the Ministry of Public Finances is empowered by law;

c) to pursue evolution of prices in the economy;

d) to apply the legal provisions in the field of unfair competition and publicity, for which the Ministry of Public Finances is empowered by law;

e) to participate in the exchange of information and experience with the international organizations and institutions, in its field of activity.

(2) The staff of the Competition Office shall be taken over by the Ministry of Public Finances, while preserving the salary rights held prior to the taking-over, depending on the duties established by this Government Emergency Ordinance for this institution, by memorandum of understanding, which will be concluded by the Ministry of Public Finances, the Competition Office and the Competition

Council, within a period not exceeding 30 days as of the date this Emergency Decree enters into force

(3) The title "Competition Office" shall be replaced by "Ministry of Public Finances" in all governmental statutes which regulate the fields of activity provided in par. (1).

(4) The complaints, intimations and petitions set forth on the grounds of governmental statutes other than Law No. 21/1996, which are in the course of being determined by the Competition Office, shall be taken over by the Ministry of Public Finances, on the basis of a memorandum of understanding, within a period not exceeding 30 days as of the date this Emergency Ordinance enters into force.

(5) The Ministry of Public Finance shall take over the personal and real estate which are administered or owned by the Competition Office, according to the activities and staff it took over through the memorandum of understanding which shall be concluded among the Ministry of Public Finances, the Competition Office and the Competition Council within a period not exceeding 30 days as of the date this Emergency Ordinance enters into force.

(6) In order to enforce pars. (1), (2) and (5), within 30 days from the date this Emergency Ordinance enters into force, the Ministry of Public Finances shall submit to the Government a draft to modify the Government Decision on the organization and operation of the Ministry of Public Finances.

- Art. IV

The Competition Council's Regulations and Guidelines, into force, shall be revised accordingly within 3 months as of the date this Emergency Ordinance enters into force.

- Art. V

On the date this Emergency Ordinance enters into force, any contrary dispositions shall be repealed.

- Art. VI

The provisions of articles II - IV will enter into force within 3 days as of the date this

Emergency Decree enters into force."

published in the Official Journal of Romania, issue 742 of August 16th 2005

*) În toate actele normative în vigoare, cu aplicare în domeniul concurenței, orice referire la "agent economic" se consideră a fi făcută la "întreprindere" sau la "operator economic", după caz. ▶ [\(on 14-Jul-2011 Actul amended by Art. I, item 44. din Legea 149/2011 \)](#)

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