



International
Competition
Network

ANTI-CARTEL ENFORCEMENT TEMPLATE

CARTELS WORKING GROUP
Subgroup 2: Enforcement Techniques

SLOVAK REPUBLIC

date of update: 27/02/2009

ICN ANTI-CARTEL ENFORCEMENT TEMPLATE

IMPORTANT NOTES:

This template is intended to provide information for the ICN member competition agencies about each other's legislation concerning hardcore cartels. At the same time the template supplies information for businesses participating in cartel activities about the rules applicable to them; moreover, it enables businesses which suffer from cartel activity to get information about the possibilities of lodging a complaint in one or more jurisdictions.

Reading the template is not a substitute for consulting the referenced statutes and regulations. This template should be a starting point only.

1. Information on the law relating to cartels

A. Law(s) covering cartels:	<p>Act No.136/2001 Coll. on Protection of Competition and on Amendment of Act of the Slovak National Council No. 347/1990 Coll. on Organization of Ministries and Other Central State Administrative Bodies of the Slovak Republic as amended</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak, English</p> <p>Procedural rules: Act No. 71/1967 Coll. on Public Administrative Procedures</p> <p>Homepage address: www.jaspi.justice.gov.sk</p> <p>Languages: Slovak, English</p>
B. Implementing regulation(s) (if any):	<p>None.</p>
C. Interpretative guideline(s) (if any):	<p>Leniency guideline</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak</p>
D. Other relevant materials (if any):	<p>Decisions of the Antimonopoly Office of the Slovak Republic</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak</p>

2. Scope and nature of prohibition on cartels

<p>A. Does your law or case law define the term “cartel”?</p> <p>If not, please indicate the term you use instead.</p>	<p>The Slovak law uses for the cartels the term "agreements restricting competition". There are "Agreements and concerted practices between undertakings, as well as decisions of their associations, whose objective or effect is or may be restriction of competition."</p> <p>According to the Act:</p> <p>a) an agreement between undertakings means any verbal or written positive expression of the will of the parties thereto, as well as any other positive expression of will derived from their conduct;</p> <p>b) a concerted practice between undertakings means any coordination of their activities that does not bear signs of an agreement between undertakings referred to in (a) and cannot be identified as the natural consequence of the actions taken by another undertaking;</p> <p>c) a decision by an association of undertakings is any legal act of the association's body, as well as a recommendation of the association's body.</p>
<p>B. Does your legislation or case law distinguish between very serious cartel behaviour (“hardcore cartels” – e.g.: price fixing, market sharing, bid rigging or production or sales quotas¹) and other types of “cartels”?</p>	<p>The article 4 of the Slovak Competition Act defines the following types of cartels:</p> <p>a) direct or indirect fixing of prices or other trade conditions,</p> <p>b) commitment to limit or control production, sales, technical development, or investments</p> <p>c) division of the market or sources of supply,</p> <p>d) commitment by the parties to the agreement that different conditions relating to an identical or comparable performance will be applied to individual undertakings, which will or may disadvantage these undertakings in competition,</p> <p>e) conditions stipulating that the conclusion of agreements will require the parties to accept further obligations that are not related to the subject of these agreements in terms of their nature or according to customary commercial practice, or</p> <p>f) signs of collusive behavior as a result of which undertakings coordinate their bids, especially in the process of public procurement.</p> <p>However, the Act does not directly differentiate between hard core and non hard core cartels. It depends on the concrete case, in which way we would consider the weighty of infringement.</p>
<p>C. Scope of the prohibition of hardcore cartels: [including any exceptions, exclusions and defences e.g. for particular industries or sectors.]</p>	<p>According to Article 6, par. 1 of the Slovak Competition Act the ban pursuant to Article 4 shall not apply to an agreement restricting competition where the combined market share of the parties thereto or the share of neither of the respective parties exceeds 10% of the total share for goods in question on the relevant market of the Slovak Republic, except for:</p> <p>a) agreements restricting competition referred to in Article 4 (3) (a) to (c) or</p> <p>b) restriction of competition by means of the cumulative effect</p>

¹ In some jurisdictions these types of cartels – and possibly some others – are regarded as particularly serious violations. These types of cartels are generally referred to as “hardcore cartels”. Hereinafter this terminology is used.

	of agreements restricting competition which contain a similar type of competition restriction and lead to similar effects in the relevant market, and their combined share exceeds 10% of the total share for goods in question in the relevant market.
D. Is participation in a hardcore cartel illegal <i>per se</i>?	Yes.
E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?	It is an administrative offence, the Office is obliged to inform on commission of a crime (article 250 of the Act No. 300/2005 Coll. Criminal Act as amended).

3. Investigating institution(s)

A. Name of the agency, which investigates cartels:	Antimonopoly Office of the Slovak Republic (Protimonopolný úrad Slovenskej republiky Division of Agreements Restricting Competition)
B. Contact details of the agency:	Antimonopoly Office of the Slovak Republic (Protimonopolný úrad Slovenskej republiky) Division of Agreements Restricting Competition Address: Slovak Republic, 826 03 Bratislava, Drieňová 24 Tel. +421 2 43334045 Fax: +421 2 4333 3572 Mail: jan.sufliarsky@antimon.gov.sk Website: www.antimon.gov.sk (in Slovak and English)
C. Information point for potential complainants:	See above.
D. Contact point where complaints can be lodged:	See above.
E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.	No.

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

A. Name of the agency making decisions in cartel cases:	Division of agreements restricting competition within the AMO.
B. Contact details of the agency:	See point 3/B above.
C. Contact point for questions and consultations:	See point 3/B above.
D. Describe the role of the investigating agency in the process leading to the sanctioning of the cartel conduct.	The investigators are the members of Division of Agreements Restricting Competition and are responsible for the investigation of the case. They can use powers indicated in Article 22 of the Slovak Competition Act. After the completing the investigations the investigator shall prepare the decision. Before making the decisions on the merits, the division informs the parties to the case about its preliminary assessment. The competence to make the decision has the Director of the Division.
E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?	Not applicable.

5. Handling complaints and initiation of proceedings

A. Basis for initiating investigations in cartel cases: [complaint, ex officio, leniency application, notification, etc.]	According to Article 25 of Slovak Competition Act proceedings in the case of an agreement restricting competition shall always commence on the Authority's own initiative. The Authority may initiate the proceedings on its own initiative and on the basis of a written petition by an individual or a legal entity that is not an undertaking pursuant to this Act. On the basis of a request submitted by an individual or a legal entity filing a written petition, the Authority shall inform them in writing of further procedure regarding the matter within two months following the date of receipt of the request.
B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)?	No.
C. Legal requirements for	No.

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

<p>lodging a complaint against a cartel: [e.g. is legitimate interest required, or is standing to make a complaint limited to certain categories of complainant?]</p>	
<p>D. Is the investigating agency obliged to take action on each complaint that it receives or does it have discretion in this respect?</p>	<p>See Point 5/A above.</p>
<p>E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?</p>	<p>See Point 5/A above.</p>
<p>F. Is there a time limit counted from the date of receipt of a complaint by the competition agency for taking the decision on whether to investigate or reject it?</p>	<p>See Point 5/A above.</p>

6. Leniency policy³

<p>A. What is the official name of your leniency policy (if any)?</p>	<p>Article 38 point. 11 and 12 of the Slovak Competition Act: (11) The Authority shall not impose a fine on an undertaking which was a party to an agreement restricting competition according to Article 4 (3) (a) to (c) or (f), for the purpose of which the parties carry out business activities at the same level of a production chain or distribution chain, and which, at the same time: a) was the first to provide, on its own initiative, decisive evidence to prove a violation of the prohibition pursuant to Article 4 or special legislation; 26a) b) terminated its participation in an agreement restricting competition at the time when it provided evidence according to (a) at the latest; c) did not force another undertaking to take part in an agreement restricting competition or was not the instigator of the conclusion of said agreement; d) provided the Authority with all evidence available to it and cooperated with the Authority throughout the entire investigation. (12) The Authority shall impose a fine reduced by up to 50% of the</p>
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³ For the purposes of this template the notion of ‘leniency’ covers both full leniency and a reduction in the sanction or fines. Moreover, for the purposes of this template terms like ‘leniency’ ‘amnesty’ and ‘immunity’ are considered as synonyms.

	<p>amount of the fine that the Authority would otherwise impose on an undertaking that was a party to agreement restricting competition pursuant to Article 4 (3) (a) to (c) or (f), for the purpose of which the parties to said agreement carry out business activities at the same level of a production chain or distribution chain, if the undertaking fails to comply with any of the following conditions:</p> <p>a) to provide, on its own initiative, significant evidence, which, in combination with information and documents already available to the Authority, enable the Authority to prove a violation of the prohibition pursuant to Article 4 or special legislation; 26a)</p> <p>b) to terminate its participation in an agreement restricting competition at the time when it provided evidence according to (a) at the latest.</p>
B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction / fine), depending on the case?	Full or partial leniency by up to 50 %.
C. Who is eligible for full leniency?	See Point 6/A above.
<p>D. Is eligibility for leniency dependent on the enforcing agency having either no knowledge of the cartel or insufficient knowledge of the cartel to initiate an investigation?</p> <p>In this context, is the date (the moment) at which participants in the cartel come forward with information (before or after the opening of an investigation) of any relevance for the outcome of leniency applications?</p>	<p>Yes, it is important for the Agency.</p> <p>Yes, the moment is of relevance.</p>
E. Who can be a beneficiary of the leniency program (individual / businesses)?	Only businesses.
F. What are the conditions of availability of full leniency:	See Point 6/A above.
G. What are the conditions of availability of partial	See Point 6/A above.

leniency (such as reduction of sanction / fine / imprisonment):	
H. Obligations for the beneficiary after the leniency application has been accepted:	See Point 6/A above.
I. Are there formal requirements to make a leniency application?	See Guidelines on non-imposing or reducing a fine in some types of agreements restricting competition pursuant to the article 38 par. 11 and 12 of the Act http://www.antimon.gov.sk/files/30/2008/LeniencyII_final_en.rtf
J. Are there distinct procedural steps within the leniency program?	See Point 6/I above.
K. At which time during the application process is the applicant given certainty with respect to its eligibility for leniency, and how is this done?	The Authority having verified the possibility of application of leniency confirms to the applicant its eligibility for leniency via an official letter, in any stage of administrative procedure.
L. What is the legal basis for the power to agree to grant leniency? Is leniency granted on the basis of an agreement or is it laid down in a (formal) decision? Who within the agency decides about leniency applications?	It is laid down in the meritory decision of the case.
M. Does your legislation have a marker system? If yes, please describe it.	See Guidelines on non-imposing or reducing a fine in some types of agreements restricting competition pursuant to the article 38 par. 11 and 12 of the Act http://www.antimon.gov.sk/files/30/2008/LeniencyII_final_en.rtf An undertaking, which plans to apply for non-imposing a fine pursuant to the article 38 par. 11 of the Act, may ask the Office first for reservation of an order (so-called marker), example see Enclosure No. 2 to this material. Reservation of an order provides an undertaking for a certain reasonable period with an order between the other potential applicants for non-imposing a fine. The purpose of the reservation is to keep the order to enforce leniency program for an undertaking despite the fact that it is not able to submit all evidence (information and documents) being necessary to enforce leniency program in the time of filing an application due to reasons, which it is obliged to clarify. Filing application an undertaking applying for reservation of an order must provide the Office with following information at least:

	<p>a) its name and address, b) participants to notified agreement restricting competition (cartel), c) goods or service to which notified agreement restricting competition relates, d) area which is affected by notified agreement restricting competition, e) estimate duration/effect of notified agreement restricting competition and f) description of functioning of notified agreement restricting competition</p> <p>An undertaking applying for reservation of an order is obliged to provide the Office both with information pursuant to the previous point and also information on applications to enforce leniency program relating to same agreement restricting competition, which it filed at national competition bodies of the other Member States or at the European Commission or it intends to file.</p> <p>The Office may grant reservation of an order to an applicant, only if an undertaking justifies its application for reservation of an order and it suggests adequate time period in which it fills in its application.</p> <p>The Office without undue delay confirms granting reservation of an order to an undertaking in written. In the letter to an undertaking the Office states its order and date or time, on which an undertaking has reservation of an order.</p> <p>The Office also determines a period, in which is an undertaking obliged to complete its application to enforce leniency program by information being necessary to enforce leniency program pursuant to the article 38 par. 11 of the Act. An undertaking may not fill in its application in the form of hypothetical application.</p> <p>If an undertaking fills in its application within period determined by the Office in the extent necessary to enforce leniency program, its application not to impose a fine is considered to be delivered on the day, when reservation of an order was granted to it. In case that an undertaking does not fill in its application to enforce leniency program in accordance with this point, it loses reservation of an order on the day following the last day of period determined by the Office pursuant to this point.</p>
<p>N. Does the system provide for any extra credit⁴ for disclosing additional violations?</p>	<p>No.</p>
<p>O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.</p>	<p>No.</p>
<p>P. Is there a possibility of</p>	<p>No, but there is a possibility to appeal the Authority's decision on</p>

⁴ Also known as: “leniency plus”, “amnesty plus” or “immunity plus”. This category covers situations where a leniency applicant, in order to get as lenient treatment as possible in a particular case, offers to reveal information about participation in another cartel distinct from the one which is the subject of its first leniency application.

appealing an agency's decision rejecting a leniency application?	the merits of the case.
Q. Contact point where a leniency application can be lodged:	See Point 3/B above.
R. Does the policy address the possibility of leniency being revoked? If yes, describe the circumstances where revocation would occur. Can an appeal be made against a decision to revoke leniency?	No.
S. Does your policy allow for "affirmative leniency", that is the possibility of the agency approaching potential leniency applicants?	No.

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

A. Briefly describe the investigative measures available to the enforcing agency such as requests for information, searches/raids⁶, electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.	<p>(1) The Authority shall:</p> <p>a) conduct investigations in the relevant market;</p> <p>b) issue a decision that an undertaking's conduct or activity is prohibited pursuant to this Act or special legislation; 5b) decide on imposing the obligation to refrain from such conduct and the obligation to remedy the unlawful state of affairs;</p> <p>c) issue a decision that this Act has been violated by a state administration authority during the performance of state administration, by a territorial self-administration authority during the performance of self-administration and transferred performance of state administration, and a special interest body during the transferred performance of state administration;</p> <p>d) proceed and decide on all matters regarding the protection of competition ensuing from the provisions of this Act or special legislation; 18a)</p> <p>e) control the observance of decisions issued within the proceedings before the Authority;</p> <p>f) issue an opinion according to special legislation; 22a)</p> <p>g) ensure international relations in the area of protection of</p>
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⁵ "Enforcing institutions" may mean either the investigating or the decision-making institution or both.

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

competition at the level of authorities having jurisdiction over this area;

h) submit an application to a court for approving an inspection for the Commission for the performance of its activities pursuant to special legislation; 1aa)

i) submit an application to the court for approving an inspection for the performance of its activities according to paragraph 4;

j) propose further measures for the protection and promotion of competition.

(2) In connection with the fulfilment of tasks pursuant to this Act and special legislation, 1aa) employees of the Authority and those entrusted with the fulfilment of tasks falling within the Authority's jurisdiction (hereinafter referred to as "Authority employees") shall have the right to request from undertakings, senior employees of an undertaking, statutory bodies of an undertaking or members of the statutory bodies of an undertaking, control bodies of an undertaking or members of the control bodies of an undertaking (hereafter referred to as "employees of an undertaking") information and documents necessary for the Authority's activities, especially accounting and trade documents or legal documents, regardless of the medium on which they are recorded, and make copies of and notes from these documents or request their officially certified translations into the Slovak language. They are also entitled to request an oral or written explanation and make an audio recording of an oral explanation. In order to obtain these documents and information, Authority employee shall have the right:

a) to seal this information or documents or to seal the buildings and premises in which an inspection is carried out according to paragraph 2 for a specified time period and to the extent necessary for the Authority to conduct an investigation;

b) to take away this information and these documents for the necessary time with the aim of making copies or gaining access to information if the Authority is unable, primarily for technical reasons, to gain access to information or make copies of documents during the performance of an inspection according to paragraph 3 or 4. The Authority shall make a record of this in the form of minutes.

(3) When fulfilling their tasks pursuant to this Act, Authority employees shall have the right, on the basis of written authorization by the Authority Chairperson, to enter any buildings, premises and means of transport of an undertaking, which are related to the activities or actions of the undertaking pursuant to Article 3 (2), in order to carry out an inspection.

(4) If there exists a reasonable suspicion that information or documents related to the activities or actions of an undertaking according to Article 3 (2), based on which a serious restriction of competition may be proven, are located in an undertaking's buildings, premises or means of transport other than those listed in paragraph 3, as well as in private buildings, private premises or private means of transport of the undertaking's employees, the Authority shall issue a decision on an inspection to be performed by Authority employees.

(5) The statement section of a decision of the Authority pursuant to paragraph 4 shall primarily contain the definition of the purpose of the inspection, specification of the buildings, premises or means of transport in which the inspection will be performed, the date and time period within which the inspection will be performed, and the specification of the persons who will perform the inspection, including their powers related to the performance of the inspection. In the explanatory part of the

	<p>decision, the Authority shall also specify the facts giving grounds for a justified suspicion according to paragraph 4. An appeal may be lodged against a decision on the performance of an inspection, which, however, shall not have a suspensive effect.</p> <p>(6) An inspection under paragraph 4 may only be performed on the basis of a court's approval of the inspection, which shall be issued following a proposal from the Authority according to special legislation. 22b) The Authority shall deliver the court's approval of the inspection to the person at whose premises the inspection will be performed at the beginning. If the person at whose premises the inspection is to be performed is not available, the Authority shall leave the court's approval of the inspection, accompanied by a copy of the record of the inspection performed, with the post Office within 24 hours after the performance of the inspection.</p> <p>(7) The Authority shall invite a custodian appointed by the court that has decided on the approval of an inspection to attend the inspection according to paragraph 4.</p> <p>(8) Following an unsuccessful request for entry, Authority employees are entitled to enforce an entry into all buildings, premises and means of transport according to paragraph 3 or 4. During an inspection according to paragraph 3 or 4, Authority employees are entitled, following an unsuccessful request for information and documents according to paragraph 2, to inspect the buildings, premises, or transportation means and enforce access to information and documents by breaking down resistance or a created obstacle. The Authority is entitled to invite other persons able to ensure the obstacle is overcome. The Authority shall make a record of this in the form of minutes.</p> <p>(9) Pursuant to special legislation, 22c) a police department is required, at the request of the Authority, to provide protection and cooperation to the Authority employees in the fulfilment of tasks according to this Act or, at the request of the Authority, also to employees of other competition authorities responsible for the implementation of the provisions of special legislation 5b) (hereinafter referred to as the "national competition authority") if they participate in an inspection according to paragraph 3 or 4, or to Commission employees and persons authorized by the Commission when fulfilling tasks pursuant to special legislation. 1aa)</p> <p>(10) The Authority is entitled to request from individuals and legal entities information and documents concerning an undertaking, as well as other information and documents necessary to the Authority's activities pursuant to this Act. These entities are required to provide such information and documents to the Authority without delay, unless this is contrary to special legislation.</p>
<p>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this require authorisation by a court?</p>	<p>Yes, see Point 7/A above.</p>
<p>C. May evidence not falling under the scope of the authorisation allowing</p>	<p>No.</p>

<p>the inspection be seized / used as evidence in another case? If yes, under which circumstances (e.g. is a post-search court warrant needed)?</p>	
<p>D. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.</p>	<p>No.</p>

8. Procedural rights of businesses / individuals

<p>A. Key rights of defence in cartel cases:</p>	<p>According to Act No. 71/1967 Coll. Public Administrative Procedures the participants have :</p> <ul style="list-style-type: none"> -right to access the documents of the relevant proceedings -right to written or oral statements -right for legal representation before the Authority -right not to self incriminate <p>According the Article 33 of Slovak Competition Act the Authority is required before a decision is issued on a matter, to call on the parties to the proceedings to express in oral or written form their views on the grounds for the decision and the method of establishing it or to propose an amendment thereto, as well as to inform them on the conclusions of the investigation at which the Authority has arrived on the basis of available information and documents.</p>
<p>B. Protection awarded to business secrets (competitively sensitive information): is there a difference depending on whether the information is provided under a compulsory legal order or provided under informal co-operation?</p>	<p>According Article 28 of Slovak Competition Act the Authority is required:</p> <p>(1) The Authority is required to inform a party to the proceedings at the beginning of the proceedings that, during the proceedings, they may indicate which of the information or documents provided to the Authority they consider being subject to business secrecy or which of the information or documents they consider confidential. The party to the proceedings must explain in writing the confidentiality of information or documents or their designation as business secrets. The Authority may ask the party to the proceedings to provide a different wording of information or documents that does not contain business secrets or does not have a confidential character.</p> <p>(2) The Authority shall also protect information whose confidentiality it has been asked to maintain. Confidentiality of such information shall, however, constitute no obstacle to its disclosure if this is necessary for a decision and if a party to the proceedings does not provide any other wording of the information and documents that does not contain business</p>

	secrets or is not confidential.
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9. Limitation periods and deadlines

A. What is the limitation period (if any) from the date of the termination of the infringement by which the investigation / proceedings must begin or a decision in the merits of the case must be made?	<p>The Slovak Act does not set such a limitation period for investigation. In case of administrative proceedings - the Authority shall issue a decision within six months following the date on which the proceedings commenced. In complicated cases, the Authority Chairperson may allow, also repeatedly, an appropriate extension of the time limit for issuing a decision by a maximum of 24 months in total. If the Authority is unable to make a decision within six months, it is required to notify the party to the proceedings thereof and indicate the reasons. This time limit shall not apply to the issuance of a decision pursuant to Article 11.</p> <p>The Authority may impose fines pursuant to paragraphs 1 to 3 and 5 within four years from the commencement of proceedings. However, the Authority may impose these fines within eight years from the day of the violation of the provisions of this Act and/or the provisions of special legislation 5b), the failure to fulfill a condition or the violation of an obligation or commitment imposed by a decision of the Authority; in the event of a continuing administrative offence or lasting administrative offence, the time limit shall begin on the date on which the violation last occurred. (Article 30).</p>
B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision in the merits?	Six months following the date on which the proceedings commenced. In complicated cases, the Chairperson may allow an appropriate extension of the time limit for issuing a decision by a maximum of 24 months.
C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an investigation or a decision regarding sanctions?	A decision issued within the first instance proceedings may be appealed within 15 days following the date of delivery of the decision. The provisions of Article 25 (3) to (7) and Articles 27 to 33 shall apply accordingly to appellate proceedings. A decision on stopping the proceedings according to Article 32 (2) (a), (b), (i) and (j) may not be appealed. (Article 34).

10. Types of decisions

A. Please list which types of decisions on the merits of the case can be made in cartel cases under the laws listed	Finding of an infringement, declaration, that an agreement is prohibited and imposition of fine; all these facts could be covered by the same decision.
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under Section 1.	
B. Please list which types of decisions on the merits of the case can be made in hardcore cartel cases under the laws listed under Section 1 (if different from those listed under 10/A).	See 10/A above.
C. Can interim measures⁷ be ordered during the proceedings in cartel cases? (if different measures for hardcore cartels please describe both⁸.) Which institution (the investigatory / the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?	<p>According to the provision of the § 43 of the act no. 71/1967 Coll., Administrative Code, as amended, the Authority is allowed, before taking the decision on the merits, to order interim measures to the participants of the procedure in order to arrange the purpose of the procedure by:</p> <p>a) Submitting to the participants to act in some way, to refrain from acting or to bear some acting of third party</p> <p>b) Securing the things, which are planning to be destroyed or made useless or which are planning for performing the evidence.</p> <p>The Authority can revoke the interim measure, after the reasons of its approval do not occur. In the other cases the interim measure is not valid after the decision on the merits was taken and is effectual.</p> <p>The appeal against the interim measure has no suspensory effect.</p>

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

A. Grounds for the imposition of procedural sanctions / fines:	<p>According the Article 38 Paragraph 5 of the Slovak Competition Act:</p> <p>(5) The Authority may impose a fine of up to 165 969,59 EUR (SKK 5,000,000) on an undertaking or legal entity that fails to fulfill the obligation to submit the requested documents or information to the Authority within the specified time limit, or submits false or incomplete documents or information, or does not allow their examination or entry according to Article 40.</p> <p>(6) The Authority may impose a fine of up to 3 319,39 EUR</p>
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⁷ In some jurisdictions, in cases of urgency due to the risk of serious and irreparable damage to competition, either the investigator or the decision-making agency may order interim measures prior to taking a decision on the merits of the case [e.g.: by ordering the immediate termination of the infringement].

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

⁹ In some jurisdictions non-compliance with procedural obligations (e.g. late provision of requested information, false or incomplete provision of information, lack of notice, lack of disclosure, obstruction of justice, destruction of evidence, challenging the validity of documents authorizing investigative measures, etc.) can be sanctioned.

	(SKK 100,000) on an entrepreneur who fails to attend, without valid reasons, a hearing or otherwise interferes with the progress of the proceedings.
B. Type and nature of the sanction (civil, administrative, criminal, combined):	Administrative.
C. On whom can procedural sanctions be imposed?	Businesses - according to the Slovak Competition Act Individuals - according to the Administrative Procedures Act.
D. Criteria for determining the sanction / fine:	See 11/A above.
E. Are there maximum and / or minimum sanctions / fines?	Only the maximum of up to 165 969,59 EUR (5 000 000 SKK) for businesses.

12. Sanctions on the merits of the case

A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined): On whom can sanctions be imposed?	Article 38 of Slovak Competition Act: (1) For the violation of the provisions of Article 4 (1), Article 8 (6), Article 10 (9), Article 25 (5) and Article 29 (5), the Authority shall impose on an undertaking a fine of up to 10% of its turnover pursuant to Article 10 (3) for the preceding closed accounting period and a fine of up to 331 939,19 EUR (SKK 10,000,000) on an undertaking that attained a turnover of up to 331,94 EUR (SKK 10,000) or attained no turnover, or on an undertaking whose turnover is not able to be calculated.
B. Criteria for determining the sanction / fine:	Article 38 Point 10 of Slovak Competition Act: (10) When imposing a fine, the Authority shall consider the gravity and duration of the violation of the provisions of this Act, violation of the provisions of special legislation 5b) or violation of a condition, obligation or commitment imposed by a decision of the Authority. When assessing the gravity of the violation, the Authority shall consider its character, actual impact on the market and, where appropriate, the size of the relevant market. In addition to these criteria, the Authority shall also consider other facts with respect to imposing a fine, especially a repeated violation by the same undertaking, an undertaking's refusal to cooperate with the Authority, an undertaking being in the position of a leader or instigator of a violation, gaining financial benefit as a result of a violation or failure to fulfil in practice an agreement restricting competition.
C. Are there maximum and / or minimum sanctions / fines?	See 12/A above.
D. Guideline(s) on calculation of fines:	The Office has Guidelines on setting fines in antitrust cases, but only Slovak version is available.
E. Does a challenge to a	Yes, according to the Article 55, par. 1 of the Act No. 71/1967

<p>decision imposing a sanction / fine have an automatic suspensory effect on that sanction / fine? If it is necessary to apply for suspension, what are the criteria?</p>	<p>Coll. on Administrative Proceedings as amended: "If the special act does not appoint otherwise, timely submitted challenge has a suspensory effect."</p>
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13. Possibilities of appeal

<p>A. Does your law provide for an appeal from a decision that there has been a violation of a prohibition of cartels? If yes, what are the grounds of appeal, such as questions of law or fact or breaches of procedural requirements?</p>	<p>Article 34 and 35 of Slovak Competition Act: Article 34 (1) A decision issued within the first instance proceedings may be appealed within 15 days following the date of delivery of the decision. (2) The provisions of Article 25 (3) to (7) and Articles 27 to 33 shall apply accordingly to appellate proceedings. (3) A decision on stopping the proceedings according to Article 32 (2) (a), (b), (i) and (j) may not be appealed. Article 35 (1) An appeal may only be waived with respect to the authority that has issued the decision in the first instance, only after the decision has been announced. (2) If an appeal has not been decided on, it may be withdrawn. If a party to the proceedings withdraws his/her appeal, it may not be resubmitted. (3) If a party to the proceedings waives an appeal or withdraws his/her appeal, the decision will enter into force on the date of delivery of the waiver or withdrawal of the appeal to the authority that has issued the decision in the first instance.</p>
<p>B. Before which court or agency should such a challenge be made? [if the answer to question 13/A is affirmative]</p>	<p>Council of the Office shall decide on appeals and review decisions outside appellate proceedings.</p>