

DECREE

of the Antimonopoly Office of the Slovak Republic

of 19 June 2014

laying down details of leniency programme

Pursuant to Article 38d paragraph 7 of Act No. 136/2001 Coll. on Protection of Competition and on Amendments and Supplements to Act of the Slovak National Council No. 347/1990 Coll. on Organization of Ministries and Other Central Bodies of State Administration of the Slovak Republic as amended in the wording of the Act No. 151/2014 Coll. (hereafter referred to as "the Act"), the Antimonopoly Office of the Slovak Republic (hereafter referred to as "the Office") stipulates the following:

Article 1

(1) Undertaking pursuant to the Article 3, par. 1 of the Act (hereafter referred to as "the undertaking") may submit an application for immunity from fines pursuant to the Article 38d, par. 1 of the Act (hereafter referred to as "the application for immunity from fines") or application for reduction of fine pursuant to the Article 38d, par. 2 of the Act (hereafter referred to as "the application for reduction of fine").

(2) Before submitting the application for immunity from fines the undertaking may apply for reservation of ranking pursuant to the Article 2 or submit a hypothetical application pursuant to the Article 3.

(3) If the undertaking submitted or intends to submit the application pursuant to the par. 1 to the European Commission, it may submit the summary application pursuant to the par. 4, by which it applies for immunity from fines or reduction of fines.

(4) Pursuant to the Article 38d par. 1 or 2 of the Act the leniency applicant shall be the undertaking being party to the agreement restricting competition pursuant to the Article 4 par. 1 of the Act (hereafter referred to as "the agreement restricting competition") or joint undertakings being parties to the agreement restricting competition and belonging to the same economic group pursuant to the Article 10 par. 4 of the Act.

(5) In the application for immunity from fines and application for reduction of fines the applicant must indicate all data and information known to him/her at the time of application. Particulars of the application are listed in an enclosure.

Article 2

(1) The application for reservation of ranking pursuant to the Article 1 par. 2 consists of

- a) indication of applicant,
- b) indication of parties to the notified agreement restricting competition,
- c) determination of goods pursuant to the Article 3 par. 2 of the Act (hereafter referred to as “the goods”) which the notified agreement restricting competition referred to,
- d) determination of geographic area which the notified agreement restricting competition covers,
- e) estimation of duration of the notified agreement restricting competition,
- f) description of functioning of the notified agreement restricting competition,
- g) explicit application for reservation of ranking, information on leniency applications or similar programme application relating to the same agreement restricting competition which the applicant submitted to the competition authorities of other Member States of the European Union or to the European Commission or which he/she intends to submit,
- i) justification of the application for reservation of ranking and
- j) proposal of time limit for submitting the immunity application in the scope according to the enclosure.

(2) Without undue delay the Office shall confirm in written granting or non-granting of reservation of ranking to the applicant. Confirmation on granting of reservation of ranking consists of the applicant’s ranking, date and time of delivery of the application for reservation to which the ranking is reserved for the applicant, time limit for submitting the immunity application according to the enclosure.

(3) If the applicant submits the immunity application in the time limit stipulated by the Office in the scope according to the enclosure, his/her immunity application is considered as delivered on the day when the reservation of ranking has been granted to him/her; once the time limit stipulated by the Office expires the applicant loses his/her reservation of ranking.

Article 3

(1) Hypothetical application is the application of person acting in favour of the applicant (hereafter referred to as “the contact person”), in which he/she indicates information and evidence intending to be provided to the Office in order to benefit from the immunity advantage, by providing descriptive list of evidence which he/she proposes to provide later.

(2) Identity of the applicant including identity of other undertakings participating in the agreement restricting competition does not need to be notified to the Office until submitting the immunity application.

(3) Hypothetical application consists of

- a) indication of the contact person including the place for delivery of documents to the contact person in the territory of the Slovak Republic or information whether the contact person requests the electronic delivery of documents,
- b) general description of the agreement restricting competition,
- c) determination of the goods which the agreement restricting competition relates to,
- d) determination of the geographic area which the notified agreement restricting competition covers,

- e) determination of duration of the agreement restricting competition,
- f) descriptive list of information and evidence which the applicant intends to provide to the Office,
- g) time limit in which the applicant proposes to provide the Office with the evidence listed in the descriptive list, and
- h) indication of the fact that it is a hypothetical application.

(4) After assessing whether information and evidence submitted in the hypothetical application may constitute decisive evidence pursuant to the Article 38d par. 1 letter a) of the Act or whether they constitute information and evidence decisive for conducting an inspection pursuant to the Article 38d par. 1 letter b) of the Act and whether the application referring to the agreement restricting competition was delivered to the Office as the first one, the Office shall inform the contact person on it and it shall stipulate the time limit for submitting the immunity application according to the enclosure.

(5) If the applicant completes his/her hypothetical application within the time limit stipulated by the Office in the scope according to the enclosure, his/her immunity application is considered as delivered on the day when his/her hypothetical application was delivered.

Article 4

- (1) Summary application pursuant to the Article 1 par. 3 consists of
- a) indication of the applicant,
 - b) indication of other parties to the agreement restricting competition,
 - c) determination of the goods referring to the agreement restricting competition,
 - d) determination of the geographic area which the agreement restricting competition covers,
 - e) determination of duration of the agreement restricting competition,
 - f) description of the agreement restricting competition,
 - g) Member States where the evidence is likely to occur,
 - h) information whether the applicant submitted or in future intends to submit the leniency application or any other similar programme application relating to the agreement restricting competition to any other competition authorities, and
 - i) explicit indication that it is a summary application.

(2) If the summary application relating to the agreement restricting competition was delivered to the Office as the first one, the Office shall inform the applicant on this fact.

(3) If the Office initiated the investigation in the matter pursuant to the Article 22 par. 1 letter a) of the Act and the applicant completed data included in the summary application in the scope according to the enclosure within the time limit stipulated by the Office, the application is considered as submitted on the day when the summary application was submitted.

Article 5

(1) If the applicant submitted immunity application but it does not fulfil conditions for immunity from fines, such application shall be assessed as application for reduction of fine and the Office informs the applicant on this fact; otherwise the submissions pursuant to the Articles 1 to 4 are assessed according to their indication.

(2) The applicant shall be informed on inclusion into the leniency programme based on assessment of fulfilling the conditions for immunity from fines or conditions for reduction of fines and assessment of conditions for including into the leniency programme pursuant to the Article 38d par. 3 letters a), b) and d) and par. 4 letters a) and c) of the Act.

(3) If the Office informs the applicant that the conditions for immunity from fines are not fulfilled the applicant may require the Office to return the evidence and to disregard the evidence submitted in connection with the application. In such case the evidence does not form the basis for the decision and the paragraph 1 shall not apply.

Article 6

This Decree shall enter into force on 1 July 2014.

Tibor Menyhart, sign manual

APPLICATION FOR LENIENCY PROGRAMME

1. Data on applicant

- 1.1 Trade name (designation)
- 1.2 Legal form
- 1.3 Address/seat
- 1.4 Place of business
- 1.5 Telephone number
- 1.6 Fax number
- 1.7 Contact person (name and surname, position, telephone number, possibly e-mail address)
- 1.8 Statutory representative of undertaking (name and surname, address, telephone number, possibly e-mail address)
- 1.9 Legal representative (name and surname, address/seat, telephone number, possibly e-mail address)

2. Data on economic group

- 2.1 Indication of undertakings belonging to one economic group in the scope of data according to point 1 and applying together for immunity from fines or reduction of fines.
- 2.2 Indication of links within the economic group.

3. Data on agreement restricting competition

- 3.1 Description of type of anticompetitive conduct (agreement restricting competition between competitors on prices, volume of goods, allocation of market or customers, price, market allocation, concerted practice in public procurement etc.).
- 3.2 Date and place, when and where the agreement restricting competition was established.
- 3.3 Description of exact functioning of the agreement restricting competition, its internal rules and control mechanisms.
- 3.4 Description of objectives pursued by the agreement restricting competition.
- 3.5 Description of applicant's participation (what was the involvement of the undertaking - the applicant) in the agreement restricting competition.

4. Data on other parties to the agreement restricting competition

- 4.1 Data on other undertakings (mainly name, legal form, address/seat, place of business).
- 4.2 Names and surnames of natural persons acting in the name of these undertakings or names and surnames of other persons, which the Office may contact.

5. Data on affected markets

- 5.1 Description of functioning of market affected by the agreement restricting competition.
- 5.2 Goods affected by the agreement restricting competition.

- 5.3 Geographic area covered by the agreement restricting competition (for example region, whole territory of the Slovak Republic, international impact).
- 5.4 Time period during which the agreement restricting competition applied.

6. Evidence

- 6.1 Indication of all evidence supporting application (mainly contracts, e-mail communication, other written documents, dates and other data on meetings, telephone calls and other contacts between the parties to agreement restricting competition). Evidence available to the applicant is enclosed to the application.
- 6.2 Indication of other existing evidence which the applicant cannot submit by him/herself and information on how the Office can acquire it.
- 6.3 For the purposes of conducting inspection pursuant to the Article 22a of the Act which should lead to acquisition of decisive evidence enabling to prove violation, indication of the following information and evidence:
- 6.3.1 name and seat of person in premises of which the evidence should occur,
- 6.3.2 indication of premises (rooms, means of transport etc.) or person where the evidence should occur,
- 6.3.3 description of documents which should occur in indicated premises,
- 6.3.4 other evidence relating to the alleged agreement restricting competition which is available or accessible to the applicant.

7. Other

Indication of all other information which the applicant considers as relevant.

8. Indication whether it is an application for immunity from fines or an application for reduction of fine.

9. Declaration that the applicant indicated all data and information and submitted all evidence available to him/her and that the application was filled out and submitted in good faith.

10. Date of submission of application and signature of the person authorized to act on behalf of the applicant indicating his/her name, surname and position.