

Law 3959/2011^{1,2}

(Gov't Gazette Issue A' 93/20.04.2011)

Protection of free competition

CHAPTER A'

OBJECTIVE OF THE PROVISIONS

Article 1

Prohibited collusion

1. Without prejudice to paragraph 3, all agreements and concerted practices between undertakings and all decisions by associations of undertakings which have as their object or effect the prevention, restriction or distortion of competition in the Hellenic Republic shall be prohibited, and in particular those which:

- a) directly or indirectly fix purchase or selling prices or any other trading conditions;
 - b) limit or control production, distribution, technical development or investment;
 - c) share markets or sources of supply;
 - d) apply dissimilar conditions to equivalent trading transactions, especially the unjustified refusal to sell, buy or otherwise trade, thereby hindering the functioning of competition;
- make the conclusion of contracts subject to acceptance, by the other parties, of supplementary obligations which, by their nature or according to commercial use, have no connection with the subject of such contracts.

2. Any agreements and decisions by associations of undertakings which come under paragraph 1 and to which paragraph 3 does not apply shall be automatically void.

3. Agreements, decisions and concerted practices which come under paragraph 1 shall not be prohibited, provided that they cumulatively satisfy the following preconditions:

- a) they contribute to improving the production or distribution of goods or to promoting of technical or economic progress;
- b) at the same time, they allow consumers a fair share of the resulting benefit;

1 Codification of 31.01.2022.

2 According to art. 3 of L. 4886/2022 (GG A' 12/24.1.2022) "Article 3 Definitions"

1. Where in the present law, as well as in law 3959/2011 (A' 93) reference is made to the Hellenic Competition Commission and to a decision of the Hellenic Competition Commission, it shall be understood as the Plenary Session of the Hellenic Competition Commission. 2. Where in this law, as well as in law 3959/2011, reference is made to the Members of the Hellenic Competition Commission, it shall mean the President, the Vice-President, the Commissioners-Rapporteurs, the members and alternate Members of the Hellenic Competition Commission."

c) they do not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives and

d) they do not afford the possibility of eliminating competition or eliminating competition in respect of a substantial part of the relevant market.

4. EU Regulations on the application of Article 101(3) of the Treaty on the Functioning of the European Union (TFEU) to categories of vertical agreements and concerted practices (block exemption Regulations) shall apply mutatis mutandis to the implementation of paragraph 3, to agreements, decisions by associations of undertakings or concerted practices which are not likely to affect trade between Member States within the meaning of Article 101(1) of the TFEU.

Article 1A³

Invitation to collude and announcement relating to communicating future pricing intentions for products and services between competitors

1. It is prohibited for an undertaking to propose, coerce, motivate or in any way invite another undertaking to participate in an agreement between undertakings or in decisions of associations of undertakings or in concerted practices aimed at preventing, restricting or distorting competition in the Greek Territory and which consist in:

a) directly or indirectly fixing purchase or selling prices on a market, or

b) limiting or control production, supply, technological development, or investments, or

γ) sharing markets or sources of supply.

2. An undertaking is prohibited from disclosing price, discount, supply or credit information about products or services it supplies or is supplied where:

a), the disclosure restricts effective competition in the Greek Territory, and

b) does not constitute a normal business practice.

In order to assess whether a disclosure restricts effective competition, the following shall be taken into account:

a) the degree of specification and the individual nature of the information;

b) whether the information relates to future activities;

c) the extent to which the information is readily accessible to the public;

d) whether the disclosure is part of a pattern of similar disclosures by the undertaking;

e) whether there is a history of past collusion in the specific market or industry between the same undertakings, and

³ As inserted by Article 4 of Law 4886/2022 with effect from 1/7/2022 in accordance with par. 2 Article 73 of Law 4886/2022.

f) whether the market to which the disclosure relates is concentrated and oligopolistic in nature.

Disclosure of information is not considered to restrict effective competition if it is addressed solely to the end users of the product or service.

3. Practices that fall under par. 1 and 2 are not prohibited, as long as they meet by analogy the conditions of par. 3 of article 1.

4. The undertakings with a total turnover of less than fifty million (50,000,000) euros and with less than two hundred and fifty (250) employees are excluded from the application of par. 1 and 2.

5. This Article is without prejudice to Articles 1 and 2 hereof or Articles 101 and 102 of the Treaty on the Functioning of the European Union. Where the conditions set out herein and in Articles 1 and 2 and Articles 101 and 102 of the Treaty on the Functioning of the European Union are met, including, inter alia, the exchange of commercially sensitive information, the latter articles shall apply to the exclusion of the present.

Article 2

Abuse of a dominant position

1. It is prohibited for one or more undertakings to abuse their dominant position within the national market or in a part of it.

2. Such abuse may, in particular, consist in:

a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

b) limiting production, distribution or technical development to the prejudice of consumers;

c) applying dissimilar conditions to equivalent trading transactions with other trading parties, especially the unjustified refusal to sell, buy or otherwise trade, thereby placing certain undertakings at a competitive disadvantage;

d) making the conclusion of contracts subject to acceptance, by the other parties, of supplementary obligations which, by their nature or according to commercial practice, have no connection with the subject of such contracts.

Article 3

1. Agreements, decisions and concerted practices which come under Article 1(1) and do not satisfy the conditions of Article 1(3) shall be prohibited, without the need for a prior decision to that effect.

2. Agreements, decisions and concerted practices which come under Article 1(1) and satisfy the conditions of Article 1(3) shall not be prohibited, without the need for a prior decision to that effect.

3. Abuse of a dominant position in accordance with Article 2 shall be prohibited, without the need for a prior decision to that effect.

Article 4

Burden of proof

Each party shall bear the burden of proof of their claims during proceedings before the Competition Commission for the purposes of Articles 1 and 2.

Article 5

Concentrations of undertakings

11. Concentrations of undertakings per se shall not be covered by the prohibitions in Articles 1 and 2.

2. A concentration shall be deemed to arise where a change of control on a lasting basis results from:

a) the merger by any means of two or more previously independent undertakings or parts of undertakings or b) the acquisition, by one or more persons already controlling at least one undertaking, or by one or more undertakings, whether by purchase of securities or assets, by contract or by any other means, of direct or indirect control of the whole or parts of one or more other undertakings.

3. For the purposes of the application of the present law, control shall be constituted by rights, contracts or

any other means which, either separately or in combination and having regard to the considerations of fact or

law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:

a) ownership or the right to use all or part of the assets of the undertaking;

b) rights or contracts which confer decisive influence on the composition, meetings or decisions of the bodies of an undertaking.

4. Control is acquired by person(s) or undertakings which:

a) are holders of the rights or entitled to rights under the contracts concerned or

b) while not being holders of such rights or entitled to rights under such contracts, have the power to exercise the rights deriving therefrom.

5. The creation of a joint venture performing on a lasting basis all the functions of an autonomous economic entity shall constitute a concentration within the meaning of the present article.

6. A concentration shall not be deemed to arise where:

a) credit institutions or other financial institutions or insurance companies, the normal activities of which include transactions and dealing in securities for their own account or for the account of third parties, temporarily acquire holdings in an undertaking with a view to reselling them, provided that they do not exercise the voting rights conferred by the securities acquired with a view to influencing the competitive conduct of that undertaking or provided that they exercise such voting rights only with the view to preparing the disposal of all or part of that undertaking or of its assets or the disposal of those securities and provided that any such disposal takes place within one year of the date of acquisition. That period may be extended by the Competition Commission on request for a reasonable period of time not exceeding a three-month period, where such institutions or companies can show that the disposal was not reasonably possible within the period set;

b) control is exercised by person appointed pursuant to legislation governing clearance, bankruptcy, suspension of payments, compositions or analogous proceedings;

c) the operations referred to in paragraph 2(b) are carried out by investment portfolio companies, provided that the voting rights conferred by the holdings acquired are exercised primarily in relation to the appointment of members of the management and supervisory bodies of the undertakings in which they have holdings, only to maintain the full value of those investments and not to determine directly or indirectly the competitive conduct of those undertakings.

Article 6

Prior notification of concentrations of undertakings

1. All concentrations of undertakings shall be notified to the Competition Commission within thirty (30) days of the conclusion of the agreement or the announcement of the bid or the acquisition of a controlling interest, where turnover by all undertakings in a concentration within the meaning of Article 10 totals at least EUR one hundred and fifty million (150,000,000) on the global market and each of at least two (2) of the undertakings involved generate turnover totalling over EUR fifteen million (15,000,000) on the Greek market.⁴

⁴ As amended by Article 5 of Law 4886/2022 with effect from 24/1/2022. In particular, the numbering in parentheses of days (30) and (2) was added.

2. The period of thirty (30) days shall commence on the date of the first of the acts referred to in the previous paragraph.⁵

3. Subject to the duty of notification are:

a) where the concentrations consist in a merger within the meaning of Article 5(2)(a) or in the acquisition of joint control within the meaning of Article 5(2)(b): jointly the parties to these acts;⁶

b) in all other cases: the person or undertaking acquiring control of the whole or parts of one or more undertakings.

4. The Competition Commission shall impose on each person who is at fault for failing to notify in accordance with par. 3⁷ of the present article, a fine of at least EUR thirty thousand (30,000) capped at ten per cent (10%) of aggregate turnover, as defined in Article 10. In fixing the amount of the fine, the economic power of the parties to the concentration, the number of the affected markets and the level of competition in those, as well as the estimated impact of the concentration on competition shall be taken into consideration.

5. The precise content of the notification shall be stipulated by means of decision of the Competition Commission, which shall also regulate all other related matters

6. The persons under a duty of notification must report the notified concentration in a daily financial newspaper of national coverage at their own expense immediately after notification. The text of the report shall be notified immediately to the Competition Commission, which shall post it on its website. Any interested party may submit comments or provide information on the notified concentration. The Competition Commission shall take into account the reasonable legitimate interests with regard to the protection of business secrets of undertakings participating to the concentration. The precise content of the report shall be stipulated by means of decision of the Competition Commission, which shall also regulate all other related matters.

7. By joint decision of the Ministers of Finance and of Development and Investments, issued following a public consultation, the thresholds and the criteria provided in par. 1 may be amended. By the same decision, different thresholds and criteria may be set by economic sector. This decision is based on statistics collected by the Competition Commission, following market mapping, conducted every three years and relating to the application of the present and the state of competition during the previous three years.⁸

⁵ As amended by Article 5 L. 4886/2022 with effect from 24/1/2022. In particular, the numbering in parentheses of days (30) was added.

⁶ As amended by Article 5 of Law 4886/2022 with effect from 24/1/2022. In particular, the words "indent" and "paragraph" have been replaced by the abbreviations "ind." and "par.", respectively.

⁷ As amended by Article 5 of Law 4886/2022 with effect from 24/1/2022. In particular, the word "paragraph" has been replaced by the abbreviation "par.".

⁸ As amended by Article 5 of Law 4886/2022 with effect from 24/1/2022. In particular, in par. 7 of article 6 of Law 3959/2011 (A' 93), a) the first indent is amended by providing for a previous public consultation instead of a proposal by the Plenary Session of the Competition Commission, b) a second indent is added and c) the third indent is replaced.

Article 7

Control of concentrations of undertakings

1. Any concentration of undertakings subject to prior notification which may significantly impede competition in the national market or in a substantial part of it, in terms of the specific characteristics of goods or services, especially by creating or strengthening a dominant position, shall be prohibited by decision of the Competition Commission

2. In appraising the potential of a concentration to significantly impede the competition within the meaning of paragraph 1, account shall be taken, in particular, of the structure of all the relevant markets, of the actual or potential competition from undertakings located inside or outside Greece, of any legal or other barriers to market entry, of the market position of the undertakings concerned and their economic and financial power, of the alternatives available to suppliers and users, of their access to sources of supply or markets for the goods, of the supply and demand trends for the relevant goods and services, of the interests of the intermediate and ultimate consumers and of the contribution to technical and economic progress and to improving economic efficiency, provided that it is to consumer's advantage and does not form an obstacle to competition.

3. To the extent that the creation of a joint venture has as its object or effect the coordination of the competitive behavior of undertakings that remain independent, such coordination shall be appraised in accordance with the criteria of Article 1(1) and (3). In making this appraisal, the Competition Commission shall take account, in particular, of:

a) whether two or more parent companies retain, to a significant extent, activities in the same market as the joint venture or in a market which is downstream or upstream from that of the joint venture or in a similar market closely related to this market, and

b) whether the coordination, which is the direct consequence of the creation of the joint venture, affords the undertakings concerned the possibility of eliminating competition on a substantial part of their markets.

Article 8

Preventive control of concentrations and Competition Commission decisions

1. The Competition Commission shall examine notified concentrations as soon as the relevant notification is submitted.

2. Where it concludes that the concentration notified does not fall within the scope of Article 6(1), the President of the Competition Commission shall issue a deed within one (1) month from the notification, which shall be notified to the persons or undertakings which filed the notification. This deed shall not restrict the application of the provisions

of Articles 1 and 2. A summary of the relevant deeds is posted on the website of the Competition Commission⁹.

3. If it is found that the notified concentration, although falling within the scope of Article 6(1), Where it finds that the concentration notified, although falling within the scope of Article 6(1)¹⁰, does not raise serious doubts as to its compatibility with the requirements of the functioning of competition in the individual markets it concerns, the Competition Commission shall issue a decision approving the concentration within one (1) month from notification.

4. Without prejudice to par. 4A, where it finds that the notified concentration falls within the scope of the present law and raises serious doubts as to its compatibility with the requirements of the functioning of competition in the individual markets it concerns, the President of the Competition Commission shall issue a decision within one (1) month from notification, initiating the procedure of in depth investigation of the concentration notified and shall immediately advise the undertakings concerned of his decision. Once the undertakings concerned have been advised that the procedure for a full investigation has been initiated, the undertakings concerned may jointly proceed to modifications to the concentration or propose to undertake commitments, so that there are no serious doubts as to its compatibility with the requirements of competition in the individual markets concerned by the concentration and notify them to the Competition Commission. Such procedures shall be closed by means of a decision as provided in paragraphs 6 and 8.¹¹

4A. If it is found that, following modifications made by the participating companies, a notified concentration no longer raises serious doubts within the meaning of paragraph 4, the Competition Commission, by a decision issued within the period of paragraph 3, approves the concentration. The decision of the Competition Commission may be accompanied by conditions and obligations to ensure that the participating undertakings comply with any commitments they may have made to the Competition Commission, so that the concentration of undertakings subject to prior notification becomes compatible with par. 1 of Article 7 and, in the case of par. 5 of Article 5, compatible with par. 3 of Article 1.

Amendments proposed by the parties to the concentration shall be submitted no later than twenty (20) days from the notification of the concentration.

By the above decision, the Competition Commission may threaten the parties to the concentration with a fine in case of non-compliance with the above terms or conditions within the framework of the commitments, as provided in par. 8.¹²

⁹ As amended by Article 6 of Law 4886/2022 with effect from 24/1/2022, and in particular to par. 2, an indent is added at the end.

¹⁰ As amended by Article 6 of Law 4886/2022 with effect from 24/1/2022. In particular, the word "paragraph" was replaced by the abbreviation "par."

¹¹ As amended by Article 6 of Law 4886/2022 with effect on 24/1/2022. In particular, in par. 4 without prejudice to par. 4A and a new paragraph at the end are inserted to the first paragraph.

¹² As inserted by Article 6 L. 4886/2022 with effect from 24/1/2022.

5. Without prejudice to par. 2, 3 and 4A¹³, the case shall be brought before the Competition Commission within forty-five (45) days from the date on which the full investigation procedure was initiated.

6. The concentration shall be prohibited by decision of the Competition Commission, issued within ninety (90) days from the date on which the full investigation procedure was initiated, if the criteria defined in Article 7(1) are fulfilled and, in the case referred to in Article 5(5), if the criteria defined in Article 1(3) are not fulfilled. The Competition Commission shall allow the concentration in all other cases. If the period of ninety (90) days expires and a decision prohibiting the concentration has not been issued, it shall be regarded as approval of the concentration by the Competition Commission, which must issue the relevant declaratory act.

7. Decisions issued pursuant to par. 3, 4A¹⁴ and 6 above shall also cover restrictions directly related and necessary to the implementation of the concentration.

8. The Competition Commission may issue a decision approving a concentration under par. 6, subject to terms and conditions stipulated by it, in order to ensure that the undertakings concerned comply with the commitments they have entered into vis-à-vis the Competition Commission with a view to rendering the concentration compatible to Article 7(1) and, in the case of Article 5(5), compatible to Article 1(3).

The commitments proposed by the undertakings concerned must be submitted within no more than twenty (20) days of the date on which the case is brought before the Competition Commission with the submission of the relevant report pursuant to the provisions of paragraph 5 hereof.

The Competition Commission may, in exceptional cases, accept commitments once the above deadline for their submission has expired. In that case, the deadline of ninety (90) days referred to in paragraph 6 may be extended to one hundred and five (105) days, by decision of the Commission which is notified to the undertakings concerned. The Competition Commission may, in the same decision, threaten the undertakings concerned with a fine if they fail to comply with the above terms or conditions in the context of the commitments. The fine referred to in the previous indent may be up to ten per cent (10%) of the aggregate turnover of the undertakings concerned, as calculated in Article 10. In fixing the amount of the fine account shall be taken in particular of the impact of the non-compliance on competition. The Competition Commission may, by its decision, regard the fine as being forfeit, if the non-compliance of the parties to the concentration with the terms or conditions imposed is established. Where the undertakings in the concentration continue not to comply, the provisions of Article 9(4) shall be applied.¹⁵

¹³ As amended by Article 6 L. 4886/2022 with effect from 24/1/2022. In particular, a reference to par. 4A was inserted.

¹⁴ As amended by Article 6 L. 4886/2022 with effect from 24/1/2022. Specifically, a reference to par. 4A was inserted.

¹⁵ The second indent of par. 8 was replaced as above by article 19 par. 1a L. 4013/2011 (Government Gazette A' /204/15.9.2011). The fifth indent of par. 8 WAS ABOLISHED by article 19 par. 1b L. 4013/2011

9. The Commission may take interim measures to restore or maintain effective competition.

10. The above measures shall be taken where a concentration:

a) has been implemented in contravention of Article 1 and a decision has not yet been taken in accordance with Article 7(1);

b) has been implemented in contravention of a term or condition imposed on the undertaking concerned in a decision under par. 4A¹⁶ and 8;

c) has been implemented in contravention of provisions or decisions prohibiting its implementation.

11. The deadlines provided for in paragraphs 2, 3, 4, 4A, 5 and 6 above may be extended where:

a) the undertakings in the concentration agree;

b) the notification is incorrect or misleading, which makes it impracticable for the Competition Commission to evaluate the notified concentration.

The deadlines provided for in paragraphs 2, 3, 4 and 4A above may also be extended if the notification form has not been fully completed, so that the Competition Commission is unable to evaluate the notified concentration. With the exception of case (a) of the present paragraph, the Commission is bound to ask, within seven (7) working days from the date of notification, the notifying undertakings to correct the original notification, in which case the deadlines shall commence on the date of due notification.¹⁷

12. The deadlines provided for in paragraphs 2, 3, 4, 4A, 5 and 6 of the present article shall, exceptionally, be suspended, in cases where the undertakings in the concentration fail to comply with their obligation to provide information in accordance with Article 38 of the present law, and provided that the undertakings concerned are advised accordingly within no more than a prescription period of two (2) working days from the expiry of the deadline set for the submission of the information, in which case the deadlines shall recommence from the date on which the undertakings concerned provide full and accurate information, as requested in accordance with Article 38 of the present law.¹⁸

13. Where a court gives a judgment which annuls the whole or part of a decision issued on the basis of the above provisions of the present article, the Competition Commission shall re-examine the concentration in the light of the current market conditions. To that effect, the notifying parties shall submit a new notification or shall supplement the original

(Government Gazette A'/204/15.9.2011). Finally, the words "paragraph – of paragraph" were replaced with the abbreviation "par." and "of par.", respectively.

¹⁶ As amended by Article 6 L. 4886/2022 with effect from 24/1/2022. Specifically, a reference to par. 4A was inserted.

¹⁷ As amended by Article 6 L. 4886/2022 with effect from 24/1/2022. Specifically, in par. 11 and 12, references to par. 2 and 4a are inserted and legislative improvements occur.

¹⁸ As amended by Article 6 L. 4886/2022 with effect from 24/1/2022. Specifically, in par. 11 and 12, references to par. 2 and 4a are inserted and legislative improvements occur. Also, in par. 12 in the first paragraph after the word "two (2)" and before the word "days" the word "working" is added.

notification, where the latter becomes incomplete by reason of intervening changes in market conditions or in the information provided for this purpose. Where there are no such changes, the parties shall ascertain this fact to the Competition Commission.

14. The decisions issued in accordance with paragraphs 2, 3, 4A and 6 above may be revoked where:

- a) they were issued on the basis of inaccurate and misleading information;
- b) the undertakings concerned commit a breach of any term or obligation attached to the decision. A summary of the revocation acts is posted on the Competition Commission's website.

Where a decision is revoked in the above cases, a new decision may be issued without the need to comply with the time limits provided for in the present article.¹⁹

Article 9²⁰

Suspension of implementation of concentration

1. Without prejudice to the provisions of paragraphs 2 and 3, the implementation of a concentration shall be prohibited until a decision has been issued under Article 8(2), (3), (4A) and (6)²¹. This prohibition shall also apply to concentrations which were not notified in accordance with Article 6(1). In the event of culpable infringement of this prohibition, the Competition Commission shall impose a fine of at least EUR thirty thousand (30,000), capped at ten per cent (10%) of aggregate turnover, as calculated in accordance with Article 10, on persons who fail in their duty of notification in accordance with Article 6(3). In fixing the fine, regard shall be had in particular to the economic power of the parties to the concentration, the number of the relative markets affected by the concentration and the competitive conditions prevailing in these, as well as to the estimated impact of the concentration on competition.

2. The provisions of par. 1 shall not prevent the implementation of a public bid, purchase or exchange or the acquisition, via a series of stock exchange transactions in securities, of a holding which provides control of an undertaking, provided that such acts are notified to the Competition Commission by the deadline provided for in Article 6(1) and provided that the acquirer does not exercise the voting rights attached to the securities in question or does so only to maintain the full value of its investments on the basis of a special authorisation granted by the Competition Commission under paragraph 3 below.

¹⁹ As amended by Article 6 L. 4886/2022 with effect from 24/1/2022. Specifically, in par. 14, a reference to par. 4A is inserted and in case b) of par. 14, a new second indent is inserted.

²⁰ As amended by Article 7 L. 4886/2022 with effect from 24/1/2022. Throughout the article, the words "paragraph" – "of paragraph" were replaced by the abbreviation "par." – "of par. ". Amendments to individual provisions are mentioned in separate footnotes.

²¹ As amended by Article 7 L. 4886/2022 with effect from 24/1/2022. In the first paragraph, a reference to par. 4A of article 8 is inserted.

3. The Competition Commission may, on request, grant a derogation from the obligations imposed in paragraphs 1 and 2, in order to prevent serious losses to one or more undertakings affected by the concentration or to a third party. In deciding on the request, the Competition Commission shall take into account, inter alia, the threat to competition posed by the concentration. The decision granting the derogation may set conditions and obligations in order to ensure conditions of effective competition and prevent situations which might hamper the execution of any final prohibiting decision. A derogation may be applied for and granted at any time, be it before notification or after the transaction. The Competition Commission may revoke the decision granting the derogation if any of the grounds listed in Article 8(14) apply.

4. Where a concentration has already been implemented in contravention of provisions or decisions prohibiting its implementation or has been implemented in contravention of a term or condition attached to a decision taken pursuant to par. 4A or 8 of Article 8, the Competition Commission may issue a decision under Article 8(6) or a separate decision without time limit²²:

a) ordering the dissolution of the concentration, in particular through the dissolution of the merger or the disposal of all the shares or assets acquired, so as to restore the situation prevailing prior to the implementation of the concentration;

b) ordering any other appropriate measure to ensure that the undertakings concerned dissolve the concentration or take other restorative measures.

The Competition Commission shall impose a fine of up to ten per cent (10%) of the aggregate turnover of the parties to the concentration, as stipulated in Article 10, on undertakings that fail to comply with the above decision, plus a fine of EUR 10,000 for every day on which they fail to comply with the decision.

5. The validity of transactions carried out in contravention of paragraph 1 shall be dependent on the decision issued in application of article 8(2), (3), (4A) and (6) or in application of paragraph 4 of the present article. However, the provisions of the present article shall have no effect on the validity of transactions in securities in general, including those convertible into other securities, unless the buyer or seller knew or ought to know that the transaction in question was carried out in contravention of paragraph 1.²³

Article 10

Calculation of turnover

1. Aggregate turnover referred to in Article 6(1) and (4), Article 8(8) and Article 9(1) and (4) shall comprise the amounts derived by the undertakings concerned in the preceding financial year from the sale of products and the provision of services falling within the

²² As amended by Article 7 L. 4886/2022 with effect from 24/1/2022. In the first paragraph, a reference to paragraph 4A of article 8 was inserted.

²³ As amended by Article 7 L. 4886/2022 with effect from 24/1/2022. In the first paragraph, a reference to paragraph 4A of article 8 was inserted.

undertakings' ordinary activities after deduction of legal discounts on sales and of value added tax and other taxes directly related to turnover. The aggregate turnover of an undertaking concerned shall not include transactions between any of the undertakings referred to in paragraph 5.

2. By way of derogation from the provisions of paragraph 1, where the concentration consists of the acquisition of parts, whether or not constituted as legal entities, of one or more undertakings, only the turnover relating to the part transferred shall be taken into account with regard to the seller. However, two or more transactions within the meaning of the previous sentence which take place within a period of two (2) years between the same persons or undertakings shall be treated as one and the same concentration arising on the date of the last transaction.

3. In place of turnover the following shall be used:

a) for credit institutions and other financial institutions, the sum of the following income items, as defined under the provisions of Presidential Decree 367/1994 (Government Gazette 200A), after deduction of value added tax and other taxes directly related to the goods and services supplied, where appropriate:

aa) interest income and similar income;

bb) income from securities:

- income from shares and other variable yield securities,
- income from holdings,
- income from shares in affiliated undertakings;

cc) commissions;

dd) net profit on financial operations;

ee) other operating income.

The turnover of a credit or financial institution in Greece shall comprise the income items, as defined above, which are received by the branch or division of that institution established in Greece.

b) for insurance undertakings, the value of gross premiums, which shall comprise all amounts received and receivable in respect of insurance contracts issued by them or on their behalf, including also outgoing reinsurance premiums, after deduction of taxes and levies charged by reference to the amounts of individual premiums or the total volume of premiums. As regards the calculation of turnover within Greece in accordance with Article 6, gross premiums received from persons resident or established in Greece shall be taken into account.

4. Without prejudice to the provisions paragraph 2, the turnover of an undertaking concerned within the meaning of Article 6(1) and (4), Article 8(8) and Article 9(1), third sentence, and (4), last sentence, shall be calculated by adding together the respective turnovers of the following undertakings:

- a) the undertaking concerned;
- b) the undertakings in which the undertaking concerned, directly or indirectly:
 - aa) owns more than 50% of the share capital or company assets or
 - bb) has the majority of voting rights or
 - cc) has the power to appoint or dismiss the majority of the members of the administrative board of the undertakings or
 - dd) has the right to manage the undertakings' affairs;
- c) those undertakings which have in an undertaking concerned the rights or powers listed in (b);
- d) those undertakings in which an undertaking as referred to in (c) has the rights or powers listed in (b);
- e) those undertakings in which two or more undertakings as referred to in (a) to (d) jointly have the rights or powers listed in (b).

5. Where undertakings concerned by the concentration jointly have the rights or powers listed in paragraph 4(b), in calculating the turnover of the undertakings concerned in accordance with Article 6(1) and (4), Article 8(8) and Article 9(1), third sentence, and (4), last sentence:

- a) no account shall be taken of the turnover resulting from the sale of products or the provision of services between the joint undertaking and each of the undertakings concerned or any other undertaking connected with any one of them, as set out in paragraph 4(b) to (e);
- b) account shall be taken of the turnover resulting from the sale of products and the provision of services between the joint undertaking and any third undertakings. This turnover shall be apportioned equally amongst the undertakings concerned.

Article 11

Regulation of sectors of the economy

1. The Competition Commission shall examine specific sectors of the Greek economy pertaining to its responsibility, at the request of the Minister of Economy, Competitiveness and Shipping or ex officio, and, if it finds that conditions of effective competition do not exist in that sector and that the application of Articles 1, 2 and 5 to 10 alone cannot create conditions of effective competition, it may issue a reasoned decision requiring any necessary measures to be taken to create conditions of effective competition in the sector of the economy in question.

The Competition Commission must notify within ninety (90) days from the date on which the procedure referred to in the previous paragraph commenced, according to the procedure of paragraph 2, its reasoned opinion as to whether or not conditions of

effective competition exist in the sector of the national economy under review, identifying the individual markets in that sector.

2. The Competition Commission shall publish its opinion in an adequate and appropriate manner and open it to public consultation. Adequate publication of its opinion shall be achieved in the form of a summary announcement in at least two financial newspapers of national coverage and a full announcement on the Competition Commission's website. Public consultation shall last a minimum of thirty (30) days.

3. Once the public consultation has been completed and if the Competition Commission again finds that, even after public consultation, conditions of effective competition do not exist in the sector of the economy in question, it shall announce the specific measures which it deems to be strictly necessary, suitable and proportionate for the purpose of creating conditions of effective competition.

4. The Competition Commission shall publish its opinion on the measures announced in accordance with the previous paragraph in an adequate and appropriate manner in accordance with the procedure described in paragraph 2 herein and open it to public consultation. Public consultation shall last a minimum of thirty (30) days.

5. Once the public consultation referred to in the previous paragraph has been completed, the Competition Commission, taking due account of the results of the public consultation, shall issue a decision which shall be the only enforceable decision, imposing the specific measures which it deems strictly necessary, suitable and proportionate for creating conditions of effective competition.

If the Competition Commission finds that conditions of effective competition do not exist, due, inter alia, to legislative acts, it shall issue an opinion, in accordance with the provisions of Article 23, recommending that they be repealed or amended. The Commission's opinion shall be submitted to the minister with jurisdiction and copied to the Minister of Economy, Competitiveness and Shipping.

6. The Competition Commission shall initiate the procedure for examining the economic sector in question and shall assess whether or not conditions of effective competition have been restored or whether the measures taken need to be amended and less or more severe measures need to be imposed, as appropriate, within no more than two (2) years of the date of the decision referred to in paragraph 5, using the procedure described in paragraphs 1 to 5. The Minister of Economy, Competitiveness and Shipping may, in all cases, submit a request within two (2) years and at least one (1) year after the date of the decision referred to in paragraph 5, if he considers that conditions of effective competition have been restored or that the measures taken need to be amended and less or more severe measures need to be imposed, as appropriate.

7. The decisions issued in accordance with paragraphs 5, first sentence, and 6 may be challenged by any party with a legitimate interest in an application for annulment before the Council of State.

8. For the purposes of the present article the Competition Commission shall rule in plenum. The information required shall be collated in accordance with the provisions of Articles 38, 39, 40 and 41 of the present law.

9. The Competition Commission may issue a decision in accordance with Article 25 imposing a fine of at least EUR fifteen thousand (15,000), capped at ten per cent (10%) of the company's total turnover in the financial year preceding the decision in question, on any company which fails to apply decision issued pursuant to paragraphs 5 and 6.

10. Specific matters pertaining to the public consultation, its contents and procedure, and any other related subject may be regulated by decision of the Minister of Economy, Competitiveness and Shipping, issued with the assent of the Competition Commission.

CHAPTER B'²⁴

COMPETITION COMMISSION AND ITS OPERATING BODIES - MUTUAL ASSISTANCE - SETTLEMENT PROCEDURE - LENIENCY

Article 12²⁵

Competition Commission

1. Competition Commission is established and shall operate as an independent authority. Its members shall enjoy personal and functional independence, they shall be bound only by law and their conscience in exercising their competences and they are required to observe the principles of objectivity and impartiality. Its members shall neither receive nor request directions regarding the exercise of their duties from the Government or other public or private parties. The members of the Competition Commission shall not be removed from office for reasons related to the performance of their duties or the exercise of their powers, without prejudice to Articles 13 and 13A. The Competition Commission is administratively and financially supervised by the Ministry of Development and Investments and is subject to parliamentary control, according to the Rules of Procedure of the Parliament, according to par. 1 of article 2 of law 3051/2002 (A' 220). The Competition Commission has legal personality, administrative and financial autonomy and appears in its own right before any court, in all kinds of legal proceedings. The Competition Commission should have sufficient qualified staff and the financial, technical

²⁴ As amended by Article 8 of Law 4886/2022 with effect from 24/1/2022.

²⁵ As amended by Article 9 of Law 4886/2022 with effect from 24/1/2022. According to par. 2 of article 52 of Law 4886/2022. «2. Until modification of the composition of the Competition Commission, so that it consists of six (6) Rapporteurs, according to par. 2 of article 12, the Competition Commission meets legally in Plenary, if the meeting is attended by the Chairman, the Vice-Chairman, the Rapporteur appointed for this case and at least two members, and decides, by a majority of those present. ". Also, the words "paragraph – of paragraph" were replaced with the abbreviation "par." and "of par.", respectively, and the "Minister of Economy, Competitiveness and Shipping" to "Minister of Development and Investments ".

and technological resources necessary for the effective performance of its tasks and the effective exercise of its powers.²⁶

2. The Competition Commission shall consist of ten (10) members, including a President, a Vice-President, six (6) Rapporteurs and two (2) regular members, with their alternates. The members of the Competition Commission shall be persons of recognised standing, distinguished by their scientific training and professional abilities in the legal and economic fields, notably in relation to matters of free competition. The President, the Vice-President and the Rapporteurs are senior government officials employed on a full-time and exclusive basis and are, at the time they hold office, suspended from their professional activity. The appointment decision determines whether the two (2) full members are employed on a full-time and exclusive or on part-time basis. It is not considered a violation of the obligation of employment on full-time and exclusive basis to undertake teaching duties on a part-time basis as Teaching Scientific Staff (TSS) and Associate Scientific Staff (ASS) of any level of Higher Education Institutions (HEIs), according to the relevant provisions. The two (2) alternate members must have the same qualifications as the two (2), respective, regular members they replace when they are absent or indisposed. In the event of absence or impediment, the President shall be replaced by the Vice-President, the Vice-President by the Rapporteur, who is the most senior as per his time of appointment, and the Rapporteur shall be replaced by another Rapporteur who is the most senior as per the aforementioned time of appointment.²⁷

3. The President and the Vice President of the Competition Commission shall be selected by decision of the Conference of the Presidents of the Hellenic Parliament, in application by analogy of Article 101A of the Constitution. The decision of the Conference of the Presidents of the Parliament is notified without delay to the Minister of Development and Investments, who shall issue the appointment deed within fifteen (15) days from the notification. Pending the necessary amendment of the Rules of Procedure of the Parliament, the President and the Vice-President of the Competition Commission shall be selected, following a proposal of the Minister of Development and Investments, by decision of the Council of Ministers, issued following the consent of the Parliamentary Committee on Institutions and Transparency.

The selection of the Rapporteurs and the two (2) regular and alternate members of the Competition Commission is made by the Minister of Development and Investments, following the assent of the Committee on Institutions and Transparency of the Hellenic Parliament, on the basis of a list of candidates, drawn up by a Selection Committee, following an open competition, which does not include an examination procedure, but the submission of a personal dossier. By decision of the Minister of Development and Investments, published in the Government Gazette and posted on the internet, in accordance with articles 75 to 80 of law 4727/2020 (A' 184), the competition procedure, the secretarial services of the Selection Committee as well as any other issue related to the application of the present. The first selection phase is carried out by an independent

²⁶ Paragraph 1 was replaced by Article 9 of Law 4886/2022 with effect on 24/1/2022.

²⁷ Paragraph 2 was replaced by Article 9 of Law 4886/2022 with effect on 24/1/2022.

five-member Selection Committee, which consists of: a) the President or Vice-President of the Council of State or the President or Vice-President of the State Legal Council, as Chair, b) the President or Vice-President of the Supreme Council for Civil Personnel Selection (ASEP), c) a former President or Vice-President of the Competition Commission, appointed by lot, d) a TSS HEI member specialised in competition law, nominated by the Minister of Development and Investments, and e) a TSS HEI member specialised in competition economics, nominated by the Minister of Development and Investments. The Selection Committee is established by a decision of the Minister of Development and Investments. The Selection Committee shall draw up a list of candidates, based on the criteria of the competition notice, which consists of twice the number of candidates for the number of relevant positions and is submitted to the Minister of Development and Investments. If the number of candidates is less than twice the number of posts, the list shall include all the candidates. In the second phase, the Minister of Development and Investments selects from the list the candidates who will fill the vacancies with the consent of the Parliamentary Committee for Institutions and Transparency for each of them separately, according to the specific provisions of the Rules of Procedure of the Parliament. If the Parliamentary Committee for Institutions and Transparency does not approve one or more of the nominees, the Minister for Development and Investments shall nominate alternative candidates from the list of candidates. In case the list of candidates is exhausted, without a consent of the Committee for Institutions and Transparency having been reached with regard to the necessary number of candidates, in order to have a legal composition of the Committee, according to par. 7 of article 15, a new competition is held for the remaining vacancies.

The full and alternate members of the Competition Commission, as well as the Rapporteurs are appointed by decision of the Minister of Development and Investments, which is published in the Government Gazette. The term of office of the President, the Vice- President, the Rapporteurs and the other members of the Competition Commission shall be five years and may be renewed once. The procedure for appointing the members of the Committee shall be initiated each time two (2) months before the end of the term of office of the former members.

In the event of death, resignation or removal from post of the President, the Vice-President or a member of the Competition Commission, a new President, Vice-President or member shall be appointed for the entire term of his/her mandate. Without prejudice to paragraph 7 of Article 15, until appointment of a new member, the operation of the Commission shall not be suspended. Persons may not be appointed as members of the Competition Commission if they have been deprived of their status as member thereof for the reasons prescribed in this Law. The term of office of Competition Commission members shall be extended automatically until new members are appointed.

The President and the Vice-President of the Competition Commission shall automatically cease their functions from the age of seventy-three (73) years and the members of the Competition Commission from the age of seventy (70) years.²⁸

4. Competition Commission members, both regular and alternate, shall, on taking up their duties, notify the Minister of Development and Investments and the President of the Competition Commission, of any service, consultancy, work or project they have carried out, under instruction or any form of legal relationship whatsoever, in the last five (5) years prior to the start of their term of office. Those Commission members not employed on a full-time and exclusive basis during their term of office shall also have a corresponding obligation to inform the President of the Competition Commission in writing of any project, work, service, consultancy or instruction carried out. Where the above notifications show members to have a previous or existing relationship with an undertaking directly or indirectly involved in a case under consideration, it is construed that they are disqualified from participating in the Competition Commission hearings to discuss and deliberations to take decisions regarding that undertaking.

5. During their term of office, regular members of the Competition Commission who are not employed on a full-time and exclusive basis, as well as alternate members, shall not be permitted to hold any salaried or unsalaried public office or carry out any other professional activity, commercial or other, that is not compatible with the status and duties of a Competition Commission member. It shall not be incompatible for Competition Commission members, both regular and alternate, to perform duties as HEI academic staff, on a full-time or part-time basis.

6. Where an incompatibility issue as per the previous paragraph arises with regard to members or their alternates, the relevant decision shall be issued by the Disciplinary Council provided for in Article 13. The body competent for the member's appointment shall issue an act for the execution of said decision.

7. The status of President, Vice-President and member (regular or alternate) of the Competition Commission is incompatible with the occupation of any kind of position in the Presidency of the Government or in the private office of a member of the Government or Deputy Minister or General or Special Secretary, including the case of par. 7 of article 46 of law 4622/2019 (A' 133) on unremunerated special advisers, for a five-year period after the end of that post holding. The status of President, Vice-President, Rapporteur and member (regular or alternate) of the Competition Commission is incompatible with any relationship by consanguinity or affinity up to the second degree or marital relationship or civil partnerships with a person who is a member of the Government. The abovementioned grounds of incompatibility are valid at the appointment and throughout the mandate. The finding of the above grounds of incompatibility shall entail an automatic disqualification from holding the office of President, Vice-President or Board Member, respectively, for which a declaratory act is issued by the appointing body. This paragraph shall enter into force after the date of publication of this law in the Government Gazette

²⁸ Paragraph 3 was replaced by Article 9 of Law 4886/2022 with effect from 24/1/2022.

and shall cover the persons already in service as long as, in the event of the occurrence of the first verse of this paragraph, five years have not elapsed since the expiry of such occupation or assignment or secondment or employment, or, in the event of occurrence of the second verse of this paragraph, the ground of incompatibility is existing at its entry of force. The grounds of incompatibility of the present paragraph do not apply in the event that they concern a serving member who was appointed following a positive opinion expressed by the Committee for Institutions and Transparency by a 4/5 majority.

The appointment of a member of the Competition Commission, in which the penalty of permanent termination as a member has been imposed on other independent authorities for a period of ten (10) years from his position in final termination, is excluded. In case of imposition, within two (2) years of disciplinary fines on a member of the Competition Commission for the same or different disciplinary misconduct, this member is automatically withdrawn of its mandate.²⁹

8. The President, the Vice-President and the members of the Competition Commission are prohibited from directly or indirectly obtaining any benefit from companies or third parties directly affected by their activity.

9. Competition Commission members and their alternates shall be required to observe confidentiality and secrecy.

The President, the Vice-President and the members of the Competition Commission are bound by the obligation of confidentiality in respect of information relating to business activities which have come to their knowledge during the performance of their duties for a period of four (4) years after the end of their term of office or their leaving.³⁰

10. By decision of the Minister of Development and Investments, following Competition Commission's opinion, a Code of Conduct shall be drawn up, regulating the way in which Competition Commission members and staff of the Directorate-General for Competition shall perform their duties.

11. The members of the Competition Commission shall not be permitted, after their term of office expires, in whatever way, to provide a service, under salary or any form of legal relationship whatsoever, to a company or undertaking regarding those cases that they handled themselves or that they decided on during their mandate. The members of the Competition Commission shall not be permitted, for three (3) years after their term of office expires, to defend cases before the Competition Commission or in appeals before the courts against Competition Commission decisions. A fine shall be imposed on persons infringing the provisions of the preceding subparagraph, by decision of the competent body of the Ministry of Development and Investments, equal to ten times the total salary and remunerations received by the Competition Commission member during his or her term of office.³¹

²⁹ Paragraph 7 was replaced by Article 9 of Law 4886/2022 with effect from 24/1/2022.

³⁰ The second indent of par. 9 was inserted by article 282 par. 1.d. L. 4364/2016 (Government Gazette A' 13 / 5.2.2016).

³¹ Paragraph 11 was replaced by Article 9 of Law 4886/2022 with effect from 24/1/2022.

12. Competition Commission members' mandate shall automatically be terminated only in the cases provided in par. 7 of this article, in par. 12 of article 12, in par. 13 of article 13A and in par. 8 of article 15 and if an irrevocable court decision for an offense that impedes the appointment of a civil servant or the dismissal of a civil servant is issued against them, in accordance with the Code on the status of civil servants and of employees of legal persons governed by public law [law n. 3528/2007, A' 26]. The automatic termination of mandate is determined by a decision of the Disciplinary Board, except in the case of par. 8 of article 15. With the exception of the cases of automatic termination of mandate and final cessation as provided herein, the term of office of the members of the Competition Commission may not end prematurely with a decision or act of a public authority, as defined in par. 1.³²

13. A member's status shall be suspended if an irrevocable indictment order is issued for an offence that entails impediment for appointment as a civil servant or forfeit of a civil servant from post, in accordance with law n. 3528/2007, A' 26, until an irrevocable acquittal judgment has been issued. If a member's status is suspended, an alternate shall be appointed, whose term of office shall last for the period of the suspension.

14. The salary of the members of the Competition Commission who are employed on a full-time and exclusive basis, as well as the level of remuneration per meeting granted to Competition Commission members, shall be determined, without prejudice to the provisions of the law n. 3833/2010 (A' 40), by joint decision of the Ministers of Finance, and of Development and Investments. A similar decision shall determine the remuneration of employees of the Directorate-General for Competition attending the meetings of the Commission on matters pertaining to their competence and of the secretary appointed on each case. The employees that receive an extra compensation for attending the meetings of the Commission on each case shall not be more than five (5).

15. [Repealed by Article 9 of Law 4886/2022 with effect from 24/1/2022].

16. Public officers, civil servants, employees of legal entities governed by public law or private law supervised by the State or lawyers under salaried instruction, where they are appointed as Competition Commission members, may be exempted, by joint decision of the Minister of Development and Investments and the competent Minister, as appropriate, from their other service duties for the duration of their participation in the Commission, receiving the full salary and allowances from their regular post against the Competition Commission budget. The provisions of the previous subparagraph shall not apply to the members of the Commission who are employed on a full-time and exclusive basis. The period in question, for all the above members, shall be considered as period of actual service for all purposes, and their participation may in no case have a detrimental effect on their administrative status or post.

³² As amended by Article 9 of Law 4886/2022 with effect from 24/1/2022, and in particular the case b of the first indent was deleted and a second indent was inserted.

17. The President and all members of the Competition Commission, as well as alternate members, shall, on an annual basis, submit the declaration of assets provided for by law 3213/2003 (A' 309) to the Public Prosecutor's Office at the Supreme Court.

18. In the event of appointment of an official of the Directorate-General for Competition or the Competition Commission to the position of President, Vice-President, or Rapporteur of the Competition Commission, and after the end of his term of office in the above position, the official shall be seconded for at least two (2) years or transferred in another service of the public sector, according to the procedures of the single mobility system provided by law 4440/2016 (A' 224).³³

Article 13³⁴

Disciplinary control

1. Competition Commission members shall be liable to disciplinary action, for any breach of their obligations deriving from this Law and delegated regulatory acts. Disciplinary proceedings before the Disciplinary Council provided for in paragraph 2 shall be initiated by the Council of Ministers, following a proposal of the Minister of Development and Investments, with regard to the President and its members. The Disciplinary Council shall decide in first and last instance on the imposition of sanctions following the procedure provided for in article 13A.³⁵

2. The Disciplinary Council shall consist of two (2) State Counselors, one (1) Supreme Court judge and two (2) university professors, active or emeritus, specialised in competition law, in commercial, criminal or public law or economics, and their term of office shall be five years. The early re-establishment of the Disciplinary Board and otherwise the early termination of the above term of office by an administrative act are prohibited. The oldest of the judicial officers acts as president. The most senior judge shall act as chair. The role of secretary to the Council shall be undertaken by an employee of the Ministry of Development and Investments. The chair, the members and the secretary of the Council shall be appointed with an equal number of alternates.³⁶

3. The Council shall be established upon decision of the Minister of Development and Investments, issued within sixty (60) days from entry into force of this Law. Remuneration of the chair, members and secretary shall be determined by joint decision of the Ministers of Finance and of Development and Investments without prejudice to the provisions of L.

³³ As par. 18 was added by Article 9 of Law 4886/2022 with effect from 24/1/2022. According to par. 3 of Article 52 of Law 4886/2022, "3. Par. 18 of article 12 does not apply to the persons already serving".

³⁴ As amended by Article 10 of Law 4886/2022 with effect from 24/1/2022. In this article, the words "paragraph – of paragraph" were replaced by the abbreviation "par." And "of par.", respectively, and the "Minister of Economy, Competitiveness and Shipping" was replaced by "Minister of Development and Investments".

³⁵ The last indent of par.1 was replaced as above with article 282 par.2.a. L.4364 / 2016 (Government Gazette A' 13 / 5.2.2016).

³⁶ As amended by Article 10 of Law 4886/2022 with effect from 24/1/2022, and specifically in par. 2 of article 13 of law 3959/2011 (A' 93), the first indent was replaced and a new second indent was inserted.

3833/2010 (A' 40). In the case of Council members who are judicial officers, a decision of the Supreme Judicial Council shall be required for their appointment.

4. The Minister of Development and Investments shall issue a relevant act for the execution of the disciplinary decision.

5. [Repealed by par.2 of article 282 Law 4364/2016 with effect from 5/2/2016]

Article 13A³⁷

Disciplinary proceedings

1. The President and the members of the Disciplinary Board shall enjoy full independence in the exercise of their duties, they shall neither seek nor receive instructions, and shall be subject to the obligation of confidentiality and secrecy. The Disciplinary Council shall meet lawfully in the presence of all its members and shall take its decision by an absolute majority of those present.³⁸

2. The following are considered as disciplinary offenses: (a) the material breach of the provisions of this law and generally of the legislation in force governing the exercise of the duties and responsibilities of the member, (b) the acquisition or the pursuit of an unfair financial advantage or consideration by the member himself or a third party during the exercise of his duties or in connection with them; and (c) where there is liability for loss incurred by the Greek State or the Competition Commission. The above offenses are disciplined if they have been committed with intent or gross negligence.³⁹

3. Penalties imposed by the Disciplinary Board include:

(a) a fine of up to twelve (12) months' earnings and

(b) definitive cessation.⁴⁰

4. [Repealed by Article 11 of Law 4886/2022 with effect from 24/1/2022]

5. The penalty of final cessation may be imposed only in the following cases:

(a) if the disciplinary offense also constitutes a criminal offense,

³⁷ As added with par.3 Article 282 Law 4364/2016 with effect from 5/2/2016. Article 11 of Law 4886/2022 replaced the words "paragraph – of paragraph" with the abbreviation "par." and "of par.", respectively, and the "Minister of Economy, Competitiveness and Shipping" was replaced by "Minister of Development and Investments".

³⁸ As amended by par.1 Article 103 Law 4389/2016 with effect from 27/5/2016. Par.1 was replaced as above by par.1 of article 103 of Law 4389/2016 (Government Gazette / A / 94 / 27.5.2016).

³⁹ Par.2 was replaced by par.2 of article 103 of Law 4389/2016 (Government Gazette / A / 94 / 27.5.2016) and was amended by Article 11 of Law 4886/2022 with effect from 24/1/2022. In particular, the case a) of par. 2 is legally improved and the second indent of par. 2 is amended as to the type of negligence.

⁴⁰ As replaced by par.3 Article 103 Law 4389/2016 (Government Gazette / A / 94 / 27.5.2016) with effect from 27/5/2016.

(b) where a member has acquired or has sought to obtain an unfair financial advantage or consideration for the benefit of the same or a third party during the exercise of his duties or in connection with them,

(c) deliberate infringement of the obligation of confidentiality and secrecy,

(d) the infringement of paragraph 5 of Article 12

(e) the loss suffered by the Greek State or the Competition Commission with intent or gross negligence.⁴¹

6. Following the initiation of disciplinary proceedings under Article 13(1), the President of the Disciplinary Board is required to summon, by a bailiff or other public body, the member to a prior hearing and to provide written explanations precisely stating the attributed misconduct and the factual circumstances that substantiate the said misconduct. The summons includes the date of the hearing of the member before the Disciplinary Board, which may not be less than ten (10) working days from the date of its delivery. Prior to the hearing and the provision of written explanations, the member has access to the case file and is entitled to receive a copy thereof. The member who is prosecuted for disciplinary offences is entitled to attend assisted by an attorney of his choice.⁴²

7. During the hearing, the member submits to the Disciplinary Board his written explanations, provides the necessary clarifications, answers questions and generally facilitates the work of the Disciplinary Board to verify the facts of the case. Upon completion of the above procedure, the Disciplinary Board shall hold a hearing on the same day and issue a decision which either:

(a) considers the explanations of the member satisfactory and sufficient and terminates the disciplinary procedure;

(b) instructs the President of the Council to draw up a report on a disciplinary offense which describes the facts, the disciplinary misconduct referred to in paragraph 2, and the date and time of the Disciplinary Board meeting for the discussion of the case, to which the prosecuted member is invited to attend, assisted by an attorney if he so wishes.

This decision shall be served on the member in either case by a bailiff or other public body.⁴³

8. In case of disciplinary action by a decision of case b of sub-paragraph b of the preceding paragraph, the Disciplinary Council may, at its discretion, examine witnesses and following the oral hearing of the prosecuted member or, in the event of his non-appearance, upon verification that he has been lawfully summoned, shall immediately issue its decision. The Disciplinary Board may, if it deems necessary, order that the disciplinary misconduct

⁴¹ As amended by Article 103 of Law 4389/2016 (Government Gazette A 94 / 27.5.2016), and by Article 11 of Law 4886/2022 with effect from 24/1/2022 and specifically in case e) of par. 5 the word "economic" is inserted before the word "loss".

⁴² Par.6 was replaced by par. 8 of Article 103 of Law 4389/2016 (Government Gazette A 94 / 27.5.2016).

⁴³ Added with par.3 Article 282 Law 4364/2016 with effect from 5/2/2016.

report be supplemented and resume the hearing. In this case, the Member shall be called by a new summons, stating a new day and time of the hearing, which shall be served in accordance with the preceding paragraph. This service may be omitted if the member was present at the first discussion and was informed of the new date of discussion. The Disciplinary Board may also once postpone the decision to examine or review witnesses, thus defining a new date for the case to be discussed. In this case, summons of the prosecuted member is required only if he was absent. Interested parties are responsible for the attendance of witnesses. Non appearance of witnesses does not prevent decision-making.⁴⁴

8α. The Disciplinary Board shall inform the Competition Commission in writing of the progress of the case, whenever requested by the Competition Commission, whilst preserving in any case the confidentiality of the procedure. The Competition Commission shall provide its views in writing to the Disciplinary Board, accompanied by any documents relating to the case.⁴⁵

9. The Disciplinary Board's decision shall be specifically substantiated, drafted in writing and summary minutes of the meetings are kept. For the purposes of the work of the Disciplinary Board, electronic means of recording of all or part of the oral procedure may be used. After the drafting and the signing of the minutes, all the electronic aids shall be destroyed.⁴⁶

10. Disciplinary proceedings are distinct and independent of any pending criminal prosecution. Criminal proceedings do not automatically suspend disciplinary proceedings, but the Disciplinary Board may order its suspension until the criminal proceedings have been completed. In case of an irrevocable decision of a criminal court for an offense related to violations of the provisions hereof or for an offense that impedes the appointment or dismissal of a civil servant, in accordance with articles 4 to 10 and 149 to 151 of Law 3528/2007 (AD 26), a decision of the Disciplinary Board is issued, which establishes the final termination of the member.⁴⁷

11. Disciplinary offenses referred to in paragraph 2 are subject to a limitation period of five years after their commencement. The limitation period for a disciplinary offence which is also a criminal offense is not completed before the limitation period for the criminal offense is completed. The summons for a hearing and for written explanations under paragraph 6 interrupts the above limitation. In this case, the total limitation period may not exceed seven (7) years, subject to subparagraph (b) and in the case of suspension of the disciplinary proceedings under par. 10, in which case the limitation period of the

⁴⁴ Added with par.3 Article 282 Law 4364/2016 with effect from 5/2/2016.

⁴⁵ As added with par.9 Article 103 Law 4389/2016 with effect from 27/5/2016.

⁴⁶ As amended by Article 11 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 9 two new indents are added.

⁴⁷ As amended by Article 11 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 10, at the end of the first indent the word "prosecution" is replaced by the word "procedure", the third indent is deleted and, in the new third indent, a specific reference to Law 3528/2007 (A' 26) is inserted.

disciplinary offense shall not be completed for one year following the date of publication of the irrevocable criminal court decision.

12. The provisions of Part E ("Disciplinary Law") of the Code of State for Public Civil Servants and Employees of Legal Entities governed by Public Law, ratified by the first article of law 3528/2007, as these provisions are in force, shall apply *mutatis mutandis* insofar as they do not conflict with the provisions of this Law.⁴⁸

13. The decisions of the Disciplinary Board, as well as the acts of the Minister of Development and Investments, issued in pursuance of these judgments under Article 13 (4), are subject to an application for annulment before the Council of State. If the Disciplinary Board's decision imposes a final cessation order, or if this decision results in the automatic removal of the member under paragraph 4, the decision of the Disciplinary Board is subject to appeal to the Council of State under Articles 41 to 44 of PD 18/1989 (A' 8). From the notification of the disciplinary decision imposing the sentence of final cessation or resulting in the automatic withdrawal and until the expiration of the time limit for appeal before the Council of State or, in the case of a timely appeal, until the termination of judicial proceedings in any way, the member of the Competition Commission shall be automatically suspended, unless otherwise decided by the Council of State following an application for suspension. Paragraph (3) of Article 103 and paragraphs 1 to 3 of Article 105 of the Code on the status of civil servants and of employees of legal persons governed by public law also apply in this case. During their suspension, members shall continue to be subject to the restrictions, obligations and incompatibilities referred to in Article 12. In case a member is put on leave, an alternate member shall be appointed for a term lasting as long as the suspension.⁴⁹

Article 14

Competences of the Competition Commission

1. Without prejudice to the competences of other authorities laid down in indent f) of par. 2 of article 113 of law 4727/2020 (A' 184) and in indents ja) and jda) of par. 1 and a) of par. 2 of article 5 of law 4053 / 2012 (A' 44), the Competition Commission is competent for the enforcement of this Law and of Articles 101 and 102 of the Treaty on the Functioning of the European Union.⁵⁰ The Competition Commission shall perform its duties and exercise its powers impartially and in the interest of the effective and uniform application of these Articles.

⁴⁸ Added by par. 3 Article 282 L. 4364/2016 with effect from 5/2/2016 and amended by Article 11 L. 4886/2022 with effect from 24/1/2022 - specifically the word "proportionally" was replaced with "*mutatis mutandis*".

⁴⁹ Par. 13 was added by par. 10 of Article 103 of Law 4389/2016 (Government Gazette A 94 / 27.5.2016) and was amended by Article 11 of Law 4886/2022 with effect from 24/1/2022. Specifically, in the third indent of par. 13, an exception is added for the case of a different decision of the Council of State after an application for suspension.

⁵⁰ As amended by Article 12 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 1, the reference to the competence of other authorities is specified.

2. In particular, the Competition Commission shall:⁵¹

a) Establish whether Articles 1 and 2 of this Law and Articles 101 and 102 of the Treaty on the Functioning of the European Union have been infringed and take the decisions referred to in Article 25 and 25C of this law;

(b) As specifically laid down in Articles 7 and 8, authorise or prohibit the implementation of a concentration between undertakings, notified to it under Article 6. If the concentration has been implemented in breach of the provisions of this Law or relevant decisions of the Competition Commission pursuant to Articles 7 and 8 hereof, it may take measures according to Article 9(4). It may allow a derogation from the obligation to suspend the implementation of the concentration between undertakings pursuant to Article 9(2) and (3);

(c) Take any strictly necessary regulatory measure aimed at creating conditions of effective competition according to the procedure of Article 11;

(d) Threaten with and/or impose fines and other sanctions as laid down in the specific provisions

(e) Take interim measures pursuant to Article 8(9) and (10) and precautionary measures pursuant to Article 25 D;

(f) Allow, by decision of the Competition Commission in plenum, the block exemption of collusive practices pursuant to Article 1(3).

(g) By decision of the plenum, withdraw the benefit of exemption:

aa) in accordance with Article 29(2) of Council Regulation 1/2003 of 16 December 2002 implementing the rules on competition laid down in Articles 81 and 82 of the Treaty establishing the European Community (L 1);

bb) when, in a specific instance, agreements, concerted practices or decisions by associations of undertakings, falling into a block exemption decision that has been issued by the Competition Commission under point (f) above, have certain effects that are incompatible with Article 1(3).

(h) Gather, process and evaluate the data and information necessary for it to fulfil its mission, pursuant to Articles 38 and 39, observing the duty of secrecy.

(i) Except in proceedings before the Athens Administrative Court of Appeal under Article 30 and proceedings before the Council of State under Articles 11(7) and 32, it may submit written observations to courts, on its own initiative, or oral observations, with permission of the court in question, on matters concerning the implementation of Articles 1 and 2 of

⁵¹ As amended by Article 12 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 2, the references to the mentioned provisions are corrected and clarified, the following are amended: subpar. c), with respect to the conditions for taking regulatory measures, subpar. j), adding the competence of the Competition Commission of carrying out information and public awareness activities, subpar. (q) with respect to providing information to the European Commission about the termination of procedures and the taking of precautionary measures, subpar. r) with respect to the said provisions, subparagraphs (s) and (t) are added.

this Law and Articles 101 and 102 of the Treaty on the Functioning of the European Union. When submitting an oral observation, the Competition Commission shall be represented by its President or Vice-President or, following authorisation from the President, by a Commission member or by the Director-General or a member of staff of the Directorate-General for Competition. The Competition Commission may request from the competent court, any document it considers necessary for it to express its opinion pursuant to the preceding subparagraphs.

(j) Issue an opinion on competition matters and on proposals to amend this Law, pursuant to Article 23 and implements information and public awareness actions on competition policy.

(ja) Issue notices and guidelines regarding the implementation of the provisions of this Law.

(jb) Issue a recommendation, by decision of the plenum, for the adoption of the Rules of Procedure and Management of the Competition Commission.

(jc) Appoint, by decision taken of the plenum, the Director General of the Directorate-General of Competition.

(jd) Issue, by decision of the plenum:

aa) The criteria for priority consideration of cases and strategic objectives, following a public consultation. The relevant decision shall, in particular, take account of the public interest, likely impact on competition, consumer protection, the limitation periods under Article 42 of this Law, as well as the anticipated outcome of its intervention in a specific case. The application of the criteria for priority consideration of cases and strategic objectives shall form part of the Report submitted to the Hellenic Parliament every year pursuant to article 29.

bb) The terms, conditions and procedures for the submission of an undertaking or a natural person to the Competition Commission's Leniency Programme pursuant to Articles 29B and 29G.

cc) The method of calculating fines imposed under Articles 25, 25B, 29A, 38(3) and 39(5).

dd) The procedure for accepting commitments under Article 25C,

ee) The procedure, terms and conditions for the settlement procedure according to article 29A.⁵²

(o) By decision of the plenary, posted on its website, the criteria for priority consideration of cases and strategic objectives shall be quantified according to a points-based system, and the details of its application shall be determined. The above-mentioned decision may provide that complaints whose ranking order is low, pursuant to the foresaid point system, are not examined. The decisions rejecting complaints on account of their low-ranking order shall be issued by the President, upon recommendation of the Directorate-

⁵² The sub-indent ee) was added by par. 2 of article 105 of Law 4389/2016 (Government Gazette A 94 / 27.5.2016) and the reference to article "29A" was amended by Article 12 of Law 4886/2022.

General, and shall be motivated and notified to the plaintiff within 30 days following its adoption. The prioritization of the cases may, when this is justified, be revised by decision of the Director General which is submitted for approval to the first Plenary session of the Competition Commission to be convened after the said decision. The plenum may reject the Director General's decision. The points-based system shall constitute an internal management tool of the Competition Commission and the prioritization results shall not be made public nor notified to the complainant or any third party.

p) Without prejudice to point (ja) of Article 19(1), decide on the conduct of ex-officio investigations by the Directorate-General for Competition.

q) Cooperate with the European Commission and the Competition Authorities of the other Member States of the European Union for the application of the European competition law, pursuant to the relevant provisions of this Law and of Regulation (EC) 1/2003 and informs the European Commission about the completion of the procedure, which has been duly notified according to par. 3 of article 11 of Regulation 1/2003, as well as about the adoption of interim measures.

r) Provide the Minister of Development and Investments, upon written request, with any information of a general nature in its possession, without prejudice to business secrets and provided that the information requested does not include information on ongoing investigations or leniency programme applications pursuant to Article 29A et seq.

s) Perform a mapping the conditions of competition, in all markets or all sectors of the economy, whenever required for the effective exercise of its responsibilities, as described in this article. A decision of the Competition Commission determines the markets or sectors of the economy intended for mapping.

t) Determines whether there is a violation of article 1A and makes the decisions referred to in cases a) to g) of par. 1 of article 25⁵³.

3. All public services and authorities, local authorities and legal entities governed by public law, as well as bodies of the wider public sector, under the provisions of L. 1892/1990 (A' 101), shall be required to assist the work of the Competition Commission, following a relevant written request by its President, in particular assisting in investigations conducted under Article 39 by collecting and providing information and data regarding:

(a) the development, structure and trends of domestic consumption, the organisation and structure of market sectors, as well as the conditions of competition in each sector,

⁵³ As amended by Article 12 of Law 4886/2022 with effect with effect from 24/1/2022 and specifically in par. 2, the references to the said provisions are corrected and clarified, the following are amended: subpar. c) with respect to the conditions for taking regulatory measures, subpar. j), adding the competence of the Competition Commission of carrying out information and public awareness activities, subpar. q) with respect to providing information to the European Commission about the completion of the proceedings and the taking of interim measures, subpar. r) with respect to the in order to increase the competence of the Competition Commission to carry out information and public awareness actions; subpar. r) with respect to the provisions referred to, subparagraphs s) and t) are added.

- (b) the drafting of charts of inter-sectoral cost correlation and indices,
- (c) the monitoring of the degree of concentration by sector of economic activity or the existence of concerted practices and the investigation of abuse of dominant position by undertakings,
- (d) the monitoring of the execution of Competition Commission decisions issued on the basis of this Law as well as of court judgments issued where the earlier decisions have been contested.

Article 15

Examination of cases by the Competition Commission

- 1.** The President shall, upon recommendation by the Directorate-General for Competition, bring before the Competition Commission, from among the cases pending before the Directorate-General under Articles 1, 1A and 2, those cases that meet the criteria for priority consideration, set pursuant to Article 14(2)(jd)(aa), as well as the cases of article 11, taking into account the available human resources, the number and progress of the cases pending from earlier case-allocation pursuant to the next paragraph. From the implementation of the point system, the Directorate-General shall investigate the cases according to their ranking pursuant to Article 14(2)(o).⁵⁴
- 2.** Each case under the preceding paragraph, except those falling under Article 11, shall be assigned by lot, by the Competition Commission plenum, to one of the Commissioners-Rapporteurs, as soon as a decision concerning the priority consideration of the case is issued, as shall any case of concentration under Articles 5 to 10. If the case is brought before a chamber, pursuant to the present Law, by the same decision of the Plenary, the regular members of the Committee are appointed, by lot, in which the Rapporteur of the case does not participate, who will compose the chamber that will examine the case. The chamber is usually chaired by the President or the Vice-President. By virtue of a decision taken by the Commission in Plenary session, upon recommendation of the President, the chairmanship of a chamber may be assigned to one of the regular members selected by lot, other than the Commissioner - Rapporteur designated for the case.⁵⁵
- 3.** The Commissioner - Rapporteur to whom the case is assigned shall be assisted by case handlers of the Directorate-General for Competition, appointed by the Director General upon proposal of the competent Director of the Directorate-General for Competition pursuant to Article 21. The number of employees of the Directorate-General for Competition appointed in the particular instance shall depend on the gravity of the case.
- 4.** The Report shall be submitted to the Plenary or the corresponding chamber, as appropriate, within one hundred and fifty (150) days from the assignment of the case, without prejudice to the time-limits prescribed in Articles 5 to 10. This time-limit may be

⁵⁴ As amended by Article 13 of Law 4886/2022 with effect from 24/1/2022 and specifically the first indent of par. 1 regarding the referred provisions and cases.

⁵⁵ As amended by Article 13 of Law 4886/2022 with effect from 24/1/2022 and specifically in the first indent of par. 2, an exception is added to the case of article 11.

extended by the President of the Competition Commission, on request of the Commissioner - Rapporteur, for a period not exceeding sixty (60) days.⁵⁶

5. All decisions of the Competition Commission shall be taken within fifteen (15) months of the relevant case being assigned to the Commissioner - Rapporteur, except in the instances provided for in Articles 5 to 10. In exceptional circumstances, or when the case requires further investigation, the Competition Commission may extend this time-limit by up to two (2) months.⁵⁷

6. Cases concerning the implementation of Articles 1, 1A⁵⁸, 2 and 5 to 10, unless otherwise stated in this Law, are brought before chambers consisting of four members, including the Commissioner - Rapporteur, except for cases of major significance which are brought before the Plenary by decision of the Competition Commission. In all other instances, cases shall be brought directly before the Competition Commission in Plenary. The Plenary session of the Competition Commission shall meet at least once a month.

7. The Competition Commission duly holds Plenary sessions provided that the President, Vice-President, the Commissioner- Rapporteur to whom the case is assigned and at least three (3) members, regular or alternate, participate in the session and it shall decide by a majority of votes cast by the members present. The Commissioner - Rapporteur designated for the case concerned shall participate in the meetings and deliberations of the Competition Commission in Plenary and of its chambers, as set out below, without voting rights.⁵⁹ In the event of a tie, the Chair shall have the casting vote. The chambers of the Competition Commission shall duly convene provided that the President or Vice-President or another chairing regular member, the Commissioner - Rapporteur designated for the case and two (2) additional regular members take part. Employees of the Directorate-General for Competition assisting the Commissioner - Rapporteur and the secretary to the Plenary or to the chamber, appointed, together with an alternate, for each case by the President of the Competition Commission, from among the employees of the Directorate-General for Competition composing the Secretariat of the President, Vice-President, Commissioners-Rapporteurs and Plenary shall participate in the Plenary and each chamber without voting rights.⁶⁰

8. If, for whatever reason, a chamber before which a case has been brought cannot be lawfully constituted, even by alternates, or is unable to function due to serious cause, the

⁵⁶ As amended by Article 13 of Law 4886/2022 with effect from 24/1/2022 and specifically in the first indent of par. 4, the number of days for the submission of the report is increased from one hundred and twenty (120) to one hundred and fifty (150).

⁵⁷ As amended by Article 13 of Law 4886/2022 with effect from 24/1/2022 and specifically in the first indent of par. 5, the time-limit for decision issuing by the Competition Commission is increased from twelve (12) to fifteen (15) months.

⁵⁸ As amended by Article 13 of Law 4886/2022 with effect from 24/1/2022 and specifically the first indent of par. 6 is amended with regard to the referred provisions and cases.

⁵⁹ As amended by Article 13 of Law 4886/2022 with effect from 24/1/2022.

⁶⁰ As amended by Article 13 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 7, the first indent is amended in order to increase the number of members required to reach a quorum from two (2) to three (3) and the last indent to replace the words "Office of the President" by the words "Secretariat of the President, Vice-President, Commissioners-Rapporteurs and Plenary".

Plenary session of the Competition Commission shall undertake to discuss the case or it shall assign the case to another chamber designated by its decision in accordance with the provisions of this Law. In this case, and except in the cases provided for in Article 8(6), the time-limits provided for by law shall be calculated again. Competition Commission members who are absent without serious reason for three consecutive meetings, whether these are meetings of a chamber in which they participate or of the Plenary, shall automatically be removed from their position. Removal shall be established by a relevant decision of the President of the Commission

9. In the discussions before the Competition Commission regarding requests and complaints submitted under this Law, the persons who submitted the request or the complaint may appear in person or together with or represented by an attorney-at-law and they shall be summoned to attend forty-five (45) days before the discussion, as will the undertakings and associations of undertakings against which the proceedings before the Competition Commission were initiated, and those provided for in the Rules of Procedure and Management of the Competition Commission. The time-limit for summons in the circumstances under Articles 8 and 9 may be no less than fifteen (15) days. The parties summoned may waive or request a shortening of the time-limits. Where there are several summoned parties, a waiver or a request a shortening of the legal time-limits shall be required from all parties.

9A. With a view to facilitating the functioning of the Commission, the discussion before the Competition Commission may, in particular if it is not possible or extremely difficult for the attendance in person of some or all parties or for other reasons of emergency, also take place using technical means (teleconferencing) in respect of these parties. The use of the teleconferencing process is decided by the Competition Commission, at its sole discretion. In such cases, the Rules of Operation and Management of the Competition Commission shall specify the place of the meeting, the manner of establishing the quorum and ensuring the secrecy of the meeting, the manner of keeping the minutes and any other relevant detail.⁶¹

9B. Meetings are confidential vis-à-vis to undertakings or individuals who are not allowed to attend, under the provisions of this law or the Commission 's Rules of Operation and Management. Violation of confidentiality entails the imposition of the sanctions of paragraph 7A of Article 44.

If during the meeting the proceedings are obstructed by the presence of third parties, by decision of the authority, which shall have an immediate effect and be recorded in the minutes or in the decision, the proceedings may be interrupted and continued in the presence of only the parties.⁶²

⁶¹ Par. 9A was added with article 70 Law 4796/2021, Government Gazette A 63 / 17.4.2021. Amended by Article 13 of Law 4886/2022 with effect from 24/1/2022 and specifically amends the first indent of par. 9A, in order to expand the possibility of using technical means (teleconferencing) during the discussions before the Competition Commission.

⁶² As added by Article 13 of Law 4886/2022 with effect from 24/1/2022.

10. Minutes shall be kept throughout the proceedings before the Plenary sessions or the chambers of the Competition Commission, in particular regarding the examination of witnesses. The time-limit for the submission of a supplementary written statement shall begin on the day following the notification of the minutes to the parties, under the responsibility of the Secretaries to the Commission. In any case, the transcripts shall be communicated to the parties within a time-limit of one (1) month after the final discussion of the case.

11. Decisions of the Competition Commission shall be notified to all parties concerned, under the responsibility of the Secretaries of the Commission in accordance with the provisions of this Law.

Article 16

Rules of Procedure and Management

1. By joint decision of the Ministers of Interior, Decentralisation and E-governance, of Finance and of Economy, Competitiveness and Shipping, issued upon recommendation by the Competition Commission and published in the Government Gazette, the Rules of Procedure and Management of the Competition Commission shall be enacted. The Rules shall regulate the internal procedure, the participation of the staff members in decisions regarding the organisation and functioning of the Commission, and also health and safety matters concerning the staff, the managing of the Commission's resources, the procedure for awarding projects and supply contracts, issues related to the purchase or lease of immovable property to meet its needs, impediments and exemption of its President, Vice-President, members and Secretary, the procedure for alternate members to deputise for regular members other than Rapporteurs, preliminary proceedings and proceedings before the Commission, the drawing-up, publication and notification of its decisions, the supply of copies of or extracts from its decisions or opinions and all other relevant details.

2. The Competition Commission may by virtue of a decision, where there are particular grounds, set up committees and working groups to examine and investigate matters concerning competition and the functioning of the Commission and the Directorate-General for Competition. Persons who are not members of the Competition Commission or staff of the Directorate-General for Competition may also participate in the committees and working groups. The above decision shall be taken on the initiative of the Competition Commission or at the request of the Minister of Economy, Competitiveness and Shipping. A joint decision of the Ministers of Finance and of Economy, Competitiveness and Shipping, following a recommendation by the Competition Commission, shall determine the remuneration of persons participating in the above committees and working groups under the provisions of L. 3833 (A' 40).

3. Decisions issued pursuant to articles 1 and 2 of the present law shall be notified both to the undertakings having infringed the law and the complainant, if the Commission initiated the investigation procedure following a complaint.

Article 17⁶³

Revenue and Budget of the Hellenic Competition Commission

(Article 5 of the Directive-Resources)

1. A contributory duty of one-thousandth (0.001) in favour of the Competition Commission shall be imposed on public limited companies (societes anonymes) that are set up or that increase their capital, calculated on the initial capital or on the amount of the increase of the share capital, respectively. This revenue shall be collected in the name of and on behalf of the Competition Commission and shall be deposited to a special bank account, managed by the Competition Commission, in accordance with its Rules of Procedure and Management. A joint decision of the Minister of Finance and the Minister of Development and Investments, following a recommendation by the Competition Commission, shall specify the bodies, method and procedure for collecting the above amounts. The revenue of the Competition Commission for the years 2021 and 2022 must at least amount to 0.0000368 of the Gross Domestic Product (GDP) of the financial year 2019, as set by the Hellenic Statistical Authority ("minimum revenue threshold"). For the years 2023 onwards the revenue of the Competition Commission must at least amount to 0.00004 (four of a billion) of the Gross Domestic Product (GDP) of the preceding financial year, as defined annually by the Hellenic Statistical Authority ("minimum revenue threshold»). If the Competition Commission revenue from the fees as set in the previous subsection is lower than the minimum revenue threshold, the relevant amount shall be supplemented by the State budget following a decision of the Minister of Finance, which will be issued following a relevant request by the President of the Competition Commission. A decision of the Minister of Finance, following a request by the President of the Competition Commission, may increase the revenue of the Competition Commission through the State budget by a minimum of 0.00001 (one of a billion) of the Gross Domestic Product (GDP) of the preceding year, as set by the Hellenic Statistical Authority, provided that the Council of Experts of the Competition Commission referred to in paragraphs 3 and 4 of Article 22, holds, by a simple majority, that the medium-term objectives of the Competition Commission, based on its key performance indicators, have been achieved. This sum shall increase the Competition Commission revenue in the next financial year.⁶⁴

1A. For the exercise of its competences, the Competition Commission shall receive, in addition to the sum referred to at the end of par. 1, grants, subsidies, funding for research projects or any other revenue from the European Union and non-profit organisations, such as international organisations, scientific and research organisations. This revenue is collected in the name and on behalf of the Competition Commission and is deposited in a

⁶³ Article 17 of Law 3959/2011 was amended by Article 16 of Law 4753/2020 (Government Gazette A '227 / 18.11.2020). Specifically, paragraphs 1, 3, 4 and 6 of article 17 of Law 3959/2011 were amended and paragraphs 1A, 8 and 9 were added, as well as paragraph 5 with Article 180 of Law 4782/2021 (Government Gazette / A / 36 / 09-03-2021) with effect from 9/3/2021.

⁶⁴ As amended by Article 16 of Law 4753/2020 with effect from 18/11/2020.

dedicated bank account, which is managed by the Competition Commission, in accordance with its Rules of Procedure and Management. This revenue may not exceed fifteen percent (15%) of the "minimum revenue threshold" of par. 1. A decision of the Competition Commission shall specify any issues related to the management of the sum of the previous subsection, remuneration to any third parties and additional remuneration to the staff and the Board members of the Competition Commission exclusively in the context of the execution of the relevant research projects.⁶⁵

2. The Competition Commission is required to keep accounts and records, which include the annual profit and loss account and the balance sheet, in accordance with the provisions on public accounting and, as specifically defined in its Rules of Procedure and Management. The audit of the financial data and annual accounts and financial statements is conducted by two (2) certified statutory auditors. These data and financial statements are published on the Commission's website and in the Government Gazette and submitted to the President of the Parliament together with the annual report referred to in Article 29 and the budget for the following year.

3. The Competition Commission is subject to the ex-post control of the Court of Audit.

4. The Competition Commission enjoys independence in terms of how to spend its allocated budget for the purposes of fulfilling its duties, within the framework of L. 4270/2014 (A' 143).

5. Where the financial management of the Competition Commission, at the end of each financial year, results in a positive balance (revenue-expenditure), up to eighty percent (80%) of this positive balance shall be made available as revenue to the State budget, by joint decision of the Minister of Finance and the Minister of Development and Investments.

6. The Competition Commission may award public contracts in accordance with its Rules of Procedure and Management, including the purchase or rental of property. The purchase or rental price of the property shall be covered from the resources of the Competition Commission.

A. The purchase of a property is carried out through a public tender procedure. By way of exception, the purchase of a property without an auction is permitted, where the property to be purchased is owned by a legal entity governed by public law, a local authority of level a' or b', according to case b) of par. 2 of article 192 of the Code of Municipalities and Communities (law 3463/2006, A' 114) and case b) of par. 2 of article 1 of p.d. 242/1996 (A' 179), for the sale of real estate, public enterprise and organisation (D.E.K.O.), of the Bank of Greece, a public limited company, which is controlled by the state, as defined in article 14 of law 4270/2014, or is supervised from this, institution or public property of law 4182/2013 (A' 185). In case that the property to be purchased by the Competition Commission needs interventions, additions or improvements, it can proceed with these using its own resources. The design project for the above works and the issuance of the

⁶⁵ As amended by Article 180 Law 4782/2021 with effect from 09/03/2021.

required planning permission, in accordance with the national and EU provisions on public procurement, contracts for works, supplies and services, shall be assigned to an engineering firm. A dedicated Committee, set up following a decision by the Plenary of the Competition Commission, shall accept the property, when ready for use.

B. The property rental referred to in the first subsection for the Commission services may exceed the 12-year period provided for in article 4 of L. 3130/2003 (A' 76), with a maximum duration of twenty (20) years, renewable once. The Competition Commission may enter into long-term rental agreements.

The rental of the property is carried out through a public tender procedure. In the context of the rental procedure, the holders of the property as well as their owners are entitled to submit bids, under a leasing contract, provided they present the written consent of the property's owner. The owner of the property co-signs the leasing contract, ensuring the unimpeded use of the lease by the Competition Commission throughout the term of the lease. In the event of termination of the leasing contract, the owner enters as a lessor in the contract with the Competition Commission for the remaining leasing duration under the same terms.

By way of exception, the long-term lease of a property without an auction is permitted, where one of the following conditions is fulfilled: a) the property to be leased is owned by a legal entity governed by public law, a local authority of level a' or b', a public company and organisation, a limited company, the Bank of Greece, a public limited company, which is controlled by the state, as defined in article 14 of law 4270/2014, or is supervised from this, institution or public property of law 4182/2013 (A' 185), or b) in case of expansion of the Competition Commission's premises, to non-leased premises of the same or an adjacent property. In case that the property to be rented by the Competition Commission needs interventions, additions or improvements, it can proceed with these using its own resources. The expenses for the design project, the issuance of the planning permission, the construction and monitoring of the construction works and the acceptance of the property, to the extent borne by the lessor, after mutual agreement determining the amount of rent, shall be compensated by the contractually agreed future lease payments or otherwise taken into account when determining the amount of rent. The design project for the above works and the issuance of the required planning permission, in accordance with the provisions on public procurement, with regard to contracts for works, supplies and services, shall be assigned to an engineering firm. A dedicated Committee, set up following a decision by the Plenary of the Competition Commission, consisting of representatives of the lessor and the lessee, shall accept the property, when ready for use.⁶⁶

7. The Competition Commission reimburses the beneficiaries of any amount unduly paid. This sum includes, in particular, the sum referred to in par. 1, which corresponds to the establishing capital not paid or the amount of the capital increase not covered, or the excess amount of the fee covered by miscalculation.

⁶⁶ As replaced by Article 14 of Law 4886/2022 with effect from 24/1/2022.

8. The Competition Commission may enter into a real property leasing contract, as the lessor. The second, third and fourth subparagraphs of par. 6(A') shall apply mutatis mutandis to the relevant procedure.⁶⁷

9. By decision of the Minister of Development and Investments, registrable in the relevant cadastral book, the ownership of the property located in Athens, at 1A Kotsika and 70 Patision streets, purchased by the Ministry of Development and Investment, is transferred to the Competition Commission, as it is legally represented, for a price covered from the resources of the Competition Commission and in which the latter's services are housed.

Article 18

Legal support for members and staff of the Competition Commission

1. The Competition Commission members, both regular and alternate and the staff of the Directorate-General for Competition, when they are acting within the framework of their responsibilities and duties in accordance with this Law are not prosecuted and indicted for actions relating to the application of this law or opinion expressed within the framework of their duties, unless they have acted fraudulently or violated the confidentiality of information and evidence, who have become aware of them within the framework of their duties or have violated the duty of confidentiality laid down in Article 26 of the Code on the status of civil servants and of employees of legal persons governed by public law (L. 3528/2007). This arrangement also applies to the members of the Competition Commission, as well as for the staff of the Competition Commission, which have left the Competition Commission.⁶⁸

2. Judicial defence and legal support of Competition Commission members and staff serving and employed in the Directorate-General for Competition under any form of legal relationship whatsoever, when they are sued or accused for acts or omissions resulting solely from the execution of their duties, shall be assigned, if they so wish, to an external lawyer appointed by the Competition Commission in Plenary, except in the case of acts directed against the Commission itself. The Competition Commission shall cover the relevant expenditure, the level of which shall be determined in the specific decision. The Competition Commission member concerned and the members of staff of the Directorate-General for Competition may alternatively use the services of another lawyer of their choice. By decision taken by the Competition Commission in Plenary the maximum relevant expenditure to be covered by the Competition Commission shall be set. Members or employees who are irrevocably convicted shall be required to repay to the Competition Commission the entire expenditure paid by the Commission for their judicial defence. The same shall also apply to Competition Commission members whose term of

⁶⁷ As amended by Article 14 of Law 4886/2022 with effect from 24/1/2022 and specifically the second indent of par. 8 is amended in terms of the reference to the indents of subparagraph A' of par. 6.

⁶⁸ As replaced by Article 15 of Law 4886/2022 with effect from 24/1/2022

office has expired, and to staff of the Directorate-General for Competition who have left the Competition Commission⁶⁹.

Article 19

Competences of the President and the Vice-President of the Commission

1. The President of the Competition Commission represents the Commission before any third party and his powers, in accordance with the law, include the issuing of regulatory acts and decisions of the Plenary, the responsibility for its operation, and he exercises his duties for this purpose, and in particular:

(a) informs the Minister of Development and Investments of the enforcement of the decisions of the Competition Commission and the confirmation and collection of the confirmed fines;

(b) coordinates and directs the operation of the Competition Commission and its units;

(c) represents the Competition Commission in committees and groups, at meetings and sessions within the framework of the European Union, the Organisation for Economic Cooperation and Development (OECD) and other international organisations, being empowered to authorise, for this purpose, the Vice-President or a member of the Competition Commission or the Director-General or Directors or employees of the Directorate-General for Competition;

(d) acts as senior administrative officer of staff of the units of the Competition Commission;

(e) sets up Service and Disciplinary Councils for the Commission's staff, in accordance with the provisions in force;

(f) ensures the drawing-up of the Commission's budget, statement of account and balance sheet;

(g) supervises the management of the Commission's finances and allocation of funds, in accordance with the Commission's decisions taken in Plenary, the Rules on Procedure and Management and applicable legislation;

(h) exercises the powers provided for in Article 8;

(i) takes decisions, without prejudice to Article 14(2)(p), regarding the conduct of ex-officio investigations by the Directorate-General for Competition;

(j) issues announcements in order to inform the public;

⁶⁹ As amended by Article 15 of Law 4886/2022 with effect from 24/1/2022 and specifically the first and second subparagraphs are amended to cover all the staff of the GDA as well as the last subparagraph of par. 2 in order to cover the staff members who have left the Competition Commission.

k) signs the queries to the Legal Council of the State on matters within the competence of the Competition Commission, accepts the relevant opinions and approves the minutes of the LCS in Commission judicial and extrajudicial proceedings;⁷⁰

l) issues the acts of appointment of the staff of the Competition Commission, in accordance with paragraph 5 of Article 21;

m) exercises any other responsibility provided for in this law and has not been assigned to another body.⁷¹

2. The President may authorise the Vice-President, the Commissioners-Rapporteurs or the Director-General or Directors of the units of the Competition Commission to exercise part of his or her duties and to sign documents or acts 'by order of the President'.

3. The President appoints, by his own decision, the administrative staff members of the Competition Commission which staffs the following operational units:

a) Directorate of Coordination and Secretariat of the President, Vice-President, Commissioners-Rapporteurs and Plenary;

b) Legal Council of State Office;

c) Directorate of International Relations and Communications; and

d) Independent Office of Internal Control.

For the selection process of the heads of these Units, the provisions of paragraphs 2, 3, 4, 5 and 6 of Article 21 and Article 21B shall apply accordingly.⁷²

4. The Vice-President of the Competition Commission has the following competences:

a) deputises for the President of the Competition Commission when the President is absent or indisposed;⁷³

b) monitors the implementation of the Competition Commission's decisions and the confirmation and collection of the confirmed fines and informs the Plenary accordingly;

c) coordinates and supervises the preparation of operational and training programmes;

d) by authorization of the President, he exercises part of his or her duties and signs documents or acts 'by order of the President'.

Article 20⁷⁴

Legal Council of State Office

⁷⁰ Inden k was added with article 67 par. 2 Law 4714/2020 (Government Gazette A 148 / 31.7.2020)

⁷¹ As amended by Article 16 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 1, indents l) and m) are added.

⁷² As replaced by Article 16 of Law 4886/2022 with effect from 24/1/2022.

⁷³ As amended by Article 16 of Law 4886/2022 with effect from 24/1/2022 and specifically amends indent a) of par. 4 regarding the deletion of the word "lacking".

⁷⁴ As amended by par. 1 Article 67 Law 4714/2020 with effect from 31/7/2020.

1. A Legal Counsellor Office to the Legal Council of the State (LCS) is established at the Competition Commission, with responsibility for the judicial and legal support of the Commission, as well as the provision of legal opinions, in accordance with the provisions of the Legal Council of the State, staffed by members of its main staff, having the capacity of Legal Counsellor of the State, State Council Associate Judge and Legal Representative of the LCS.⁷⁵
2. This Office shall be headed by the Legal Counsellor of the State who is responsible for the general supervision, ensuring its smooth and proper operation and the handling of any case of his competence.⁷⁶
3. By decision of the President of the Competition Commission, the Legal Counsellor Office shall be provided with the necessary logistical infrastructure for its hosting and operation and shall have at its disposal at least one (1) administrative official of the Competition Commission for his secretarial support.⁷⁷
4. By decision of the President of the Competition Commission, following recommendation of the Head of the Legal Counsellor Office to the LCS, it may exceptionally be decided to use an external lawyer where this is deemed necessary because of the particular importance and complexity of the case. A decision by the Competition Commission, adopted by a joint decision by the competent bodies of the Ministries of Finance and of Development and Investments, sets out the remuneration paid in the event of recourse to an external lawyer (natural or legal person), which may not exceed EUR 20 000 (20,000) per year. The amount referred to in the preceding subparagraph may be adjusted by a joint decision of the Ministers of Finance, of Development and Investments and of Justice, which shall apply from the financial year following its publication.⁷⁸
5. It is not allowed to assign a case to an external lawyer, natural or legal person, in respect of which there is, either directly or indirectly, a conflict of interests. A joint decision by the Ministers of Finance and of Development and Investments and of Justice, issued following the issuance of an opinion by the President of the Competition Commission, may determine the cases of conflict of interests and to regulate any other specific matter for the implementation of this provision.⁷⁹
6. For the staffing needs of the Legal Counsellor Office at the Competition Commission, the organisational posts of Legal Counsellors of the State, State Council Associate Judges and Legal Representatives of the LCS are increased by one (1), respectively .⁸⁰

Article 21

⁷⁵ As amended by par. 1 Article 67 Law 4714/2020 with effect from 31/7/2020.

⁷⁶ As amended by par. 1 Article 67 Law 4714/2020 with effect from 31/7/2020.

⁷⁷ As amended by par. 1 Article 67 Law 4714/2020 with effect on 31/7/2020.

⁷⁸ As amended by par. 1 Article 67 Law 4714/2020 with effect on 31/7/2020.

⁷⁹ As amended by par. 1 Article 67 Law 4714/2020 with effect on 31/7/2020.

⁸⁰ As amended by par. 1 Article 67 Law 4714/2020 with effect on 31/7/2020.

Organisation of the Competition Commission⁸¹

1. A Directorate-General for Competition is established at the Competition Commission, headed by a Director-General. The Directorate-General for Competition shall consist of sectoral directorates as well as separate units and offices.⁸²

2. The Director-General shall coordinate the operation of the Directorates and the other units falling under his responsibility. The Director-General shall be selected following a public notice for the post, specifying the required qualifications and merits. The successful candidate shall be appointed by decision of the Competition Commission taken in Plenary, for a four-year term of office, which may be renewed only once, without prejudice to article 21c. The recruitment of a lawyer to the post of Director-General entails the suspension of the practice of the legal profession. The Director-General shall receive all types of remuneration, allowances, supplements and other benefits provided for Directors-General of the of the central service of the Ministry of Development and Investments.⁸³

3. The organisation and structure of the Directorate-General for Competition consisting of directorates, units and offices, their responsibilities and the staff qualifications, the number of staff posts, their distribution by disciplines and specialisation and each relevant matter are determined by the Organisation of the Competition Commission. The total number of staff posts is set at two hundred and thirty (230). The Directorate-General for Competition may, in addition, be staffed by a maximum of two (2) salaried lawyers, who are selected by notice of recruitment and are not allowed to take up or participate in cases that fall within the scope of this law during their employment in the Competition Commission and for a duration of one (1) year after the termination of their mandate in any way. In addition, such persons shall not, after any termination of their mandate, be allowed to take up or take part in cases which they have handled or participated in the handling thereof in the course of their employment in the Competition Commission. The vacancy notice for the above positions determines the capacity as of an avocat at the Court of First Instance, at the Court of Appeal or at the Supreme Court salaried lawyers to be hired despite the Court of First Instance, the Court of Appeal or the Supreme Court. The relationship that connects salaried lawyers with the Competition Commission is that provided for in articles 42 to 46 of law 4194/2013 ("Lawyers' Code", A' 208).⁸⁴

4. The recruitment of a lawyer to the post of Head of Directorate shall entail suspension of the practice of his/her legal profession. Directors who do not belong to the staff of the Competition Commission or have not been seconded or transferred to it to fill a post of Director shall receive all types of remunerations, allowances, supplements and other

⁸¹ As amended by Article 17 of Law 4886/2022 with effect from 24/1/2022. The title is amended by deletion of the reference to the staff of the Competition Commission.

⁸² As amended by Article 17 of Law 4886/2022 with effect on 24/1/2022 and specifically in par. 1, the second subparagraph is replaced and the third subparagraph is abolished, c) par. 2, 3, 5 and 8 are replaced.

⁸³ As replaced by Article 17 of Law 4886/2022 with effect on 24/1/2022.

⁸⁴ As replaced by Article 17 of Law 4886/2022 with effect on 24/1/2022.

benefits received by members of specialised scientific staff when selected as Heads of a Directorate or Unit. The period of any prior service in each previous relevant employment shall be taken into account in determining the salary scale.⁸⁵

5. It is allowed to fill posts by (a) appointment, in accordance with article 7 of Law 4765/2021 (A' 7) or (b) transfer of permanent employees or employees under a private law employment contract of indefinite duration as provided for by article 14 of L. 4270/2014 (A' 143).

The appointment is effectuated by an act of the President of the Competition Commission. The transfer is carried out in accordance with the provisions of Law 4440/2016 (A' 224).⁸⁶

6. Specialised scientific staff shall be recruited under an employment contract of indefinite duration under private law, in accordance with the provisions of L. 4765/2021. Such posts may also be filled by transfer, in accordance with the present article.⁸⁷

7. The Competition Commission may consult experts and specialists, natural or legal persons, on particular issues and problems, if it considers it necessary and appropriate. A decision of the Competition Commission defines the amount of compensation for specialists and experts. The total annual compensation of each specialist and expert, natural or legal person, may not exceed the ceiling set in accordance with Article 118 of L. 4412 / 2016 (A' 147) for the direct awarding of services.⁸⁸

8. The Competition Commission may employ, on an unpaid basis and for a period not exceeding nine (9) months for each, young scientists the number of which may not exceed twenty (20), in order to gain practical experience in the legal or economic field of free competition and the application of new technologies.⁸⁹

9. a) The Service Council for Staff of the Competition Commission shall be set up by a decision of the President of the Commission and shall consist of the President of the Competition Commission, appointed as President of the Council, one (1) member of the Commission elected by that plenary on a recommendation from the President, the Head of the Directorate-General for Competition and two (2) elected representatives of the staff of at least grade B¹. The above persons shall be defined together with their alternates. By decision of the Competition Commission, the head of the Chief Legal Officer

⁸⁵ As amended by Article 17 of Law 4886/2022 with effect from 24/1/2022 and specifically the first two subparagraphs of par. 4 are amended to refer not only to directorates, but also to units and, in the second subparagraph, the reference to transferred directors to the Competition Commission was deleted.

⁸⁶ As replaced by Article 17 of Law 4886/2022 with effect from 24/1/2022.

⁸⁷ As amended by Article 17 of Law 4886/2022 with effect from 24/1/2022 and specifically par. 6, in the first subparagraph, the reference to the referred provisions is updated, in the second subparagraph the reference to secondment is deleted and the third paragraph is deleted.

⁸⁸ As amended by Article 17 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 7, the first subparagraph is amended in terms of the qualities of experts and the second subparagraph in terms of the competent bodies and a new third subparagraph is added.

⁸⁹ As replaced by Article 17 of Law 4886/2022 with effect on 24/1/2022.

Directorate is appointed as Deputy Director-General. The Service Council also acts as a First-level Disciplinary Council for the staff of the Directorate-General.

b) The duties of the Second-level Disciplinary Council for the of the organisational units of the Competition Commission are exercised by the Disciplinary Council of par. 2 of article 13.

c) A Special Evaluation Committee is hereby established by decision of the Competition Commission, the task of which is defined in Article 21 of the Staff Regulations. 4369 / 2016 (A) 33). It is composed of the President of the Competition Commission as Chair, with one (1) alternate member of the Competition Commission elected by its Plenary following a recommendation from the President, the Head of the Directorate-General with the Head of the Chief Legal Officer Directorate as alternate, one (1) member of the Competition Commission with another alternate member of the Competition Commission, elected by its Plenary following a recommendation from the President and two (2) Heads of the Directorate-General from another body, with their alternates. The Secretary appointed for the Special Evaluation Committee shall be an official of the Human Resources Directorate of the Competition Commission. Two (2) elected representatives of regular officials or officials under a private-law employment relationship of indefinite duration of the Competition Commission. The term of office of the members of the Special Evaluation Committee shall be two years. The establishment of the Special Evaluation Committee shall take place within twenty (20) days of the end of its term of office.⁹⁰

10. The posts of the heads of the Directorate-General, Directorates, departments and offices of the Competition Commission may be filled by Competition Commission's staff, officials seconded to it to fill the post or persons recruited for a term of office referred to in paragraph 4. The act of secondment of officials to the posts of heads of the Competition Commission shall be issued by the President of the Competition Commission and immediately communicated to the official's service of origin and to himself, who shall be required to take up service in his new post at the latest within one (1) month of that notification. The secondment shall be made by way of derogation from the relevant provisions of the applicable legislation and for a period equal to the term of office of the Head of Unit, renewable once. This secondment shall not require an opinion of the Service Council of the Service of origin of the seconded official.⁹¹

11. The grounds of incompatibility provided for in the first and second subparagraphs of par. 7 of article 12 are in force and apply to the status of Director General or Head of Directorate of the Directorate-General. Such grounds of incompatibility are valid at the time of appointment and during the entirety of the mandate. The Director General or the

⁹⁰ As amended by Article 17 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 9, the first and third subparagraphs of indent a) and indent b) are replaced and indent c) is added.

⁹¹ As amended by Article 17 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 10, after the words "The posts of the heads" are added the words "of the Directorate-General ", the words "of the Directorate-General for Competition" are replaced by the words "Competition Commission", three subparagraphs are added for secondment process and the reference to officials who have been transferred to the Competition Commission is deleted.

Head of Directorate are relieved of their duties when the grounds of incompatibility are established by a relevant Decision of the Competition Commission. The present provision enters into force upon publication of the present law in the Government Gazette and applies to serving employees of the Directorate-General, provided that, in the case of the first subparagraph of para 7 of article 12 of the present law, as far as, according to the first subparagraph of par. 7 pf article 12, they assume their duties in the Directorate-General, a period of five years have not lapsed since taking up their post in the Directorate-General, from the end of their service or the assignment or the secondment or the employment in an office of the same subparagraph, or if, in the case of the second subparagraph of paragraph 7 of article 12 of this law, the incompatibility exists at the time of its entry into force.⁹²

12. The officials of the Directorate-General for Competition, the Directorate for International Relations and Communications, the Directorate for Coordination and Secretariat and the Internal Audit Office and the officials seconded to it shall receive special additional remuneration determined per category by joint decision of the Ministers of Finance and of Development and Investments and shall be paid from the budget of the Competition Commission. Where seconded officials receive special additional fees from their service, they shall be required to choose, by means of a declaration to the Directorate-General for Competition of the Competition Commission, which shall be notified and to the service from which they are seconded, the specific additional remuneration referred to in this paragraph or the specific additional remuneration laid down for their post. The remuneration of special scientific staff referred to in paragraph 6 shall be determined by a joint decision of the Ministers of Finance and of Development and Investments. Recruitment of a lawyer to the post of specialised scientific staff shall entail the maintenance of his/her legal capacity and the suspension of his/her legal practice, without prejudice to his/her insurance rights, by way of derogation from any other provision. Paragraph 2 of Article 24 of Law 1868 / 1989 (A' 230), as amended by paragraph 1 of Article 37 of Law 2145 / 1993 (A' 88) shall apply *mutatis mutandis*, except for the second sentence of the first subparagraph of Article 24 (2) of Regulation No 1868 / 1989, from the day on which they take up their duties, for lawyers employed in the Competition Commission and subject to a compulsory suspension of legal practice. The provisions of the preceding subparagraph shall apply to the members of the Competition Commission who are employed on a full and exclusive basis, if they are lawyers.

The Staff Regulations, including suspended lawyers, shall be governed by:

a) Code on the status of civil servants and of employees of legal persons governed by public law (L. 3528 / 2007, A' 26) as regards permanent staff, applicable accordingly,

⁹² The new par. 11 was added with par. 1c of article 101 of Law 4623/2019 (Government Gazette A` 134 / 09.08.2019), the following paragraphs being enumerated accordingly.

b) Code on the status of employees under private law, LPPL and the local authorities (PD 410 / 1988, A' 191) and L. 3801 / 2009 (A) 163 as regards staff employed under a private-law contract.⁹³

13. The staff of the Competition Commission shall carry out their duties with impartiality, confidentiality, professionalism, transparency and in the interests of the effective application of Articles 101 and 102 of the Treaty on the Functioning of the European Union, as well as Articles 1, 1A and 2 of this law, in compliance with the provisions of Decision No. 1239 / 25.2.2020 (B' 598) of the Minister of Development and Investments, as applicable. It enjoys personal and operational independence and carries out its work unaffected by political and other external interventions. For that purpose, it shall not be subject to any order or instruction from another public authority, except for the prosecution and judicial authorities.⁹⁴

14. The staff of the Competition Commission shall take the necessary measures to prevent and avoid situations of conflict of interests. In that context, it shall inform without delay and in writing the service of situations or events which are likely to present a risk of conflict of interests. The breach of the abovementioned obligations constitutes a disciplinary offence punishable under the Code of Conduct and depending on the gravity of the conduct.⁹⁵

15. After leaving for any reason, staff members are not be allowed for a period of one (1) year after they have left, to engage, in the context of their professional activity, in a case related to the procedure for the application of Articles 1, 1A, 2 or 5 to 10 of this Treaty and 101 or 102 of the Treaty on the Functioning of the European Union that the staff member concerned handled during his or her term of office. Following the leaving, for any reason, of Heads in the Directorate-General, Directorates, Units and Offices from the private or public sector and not belonging to the staff of the Competition Commission, such persons are not allowed to engage in cases falling within the scope of this law during their employment in the Competition Commission and for a period of six (6) months after their leaving. In addition, they may not engage in any way, in the context of their professional activity, in cases related to the application of Articles 1, 1A, 2 or 5 to 10 of this Treaty and 101 or 102 of the Treaty on the Functioning of the European Union, which they have handled during their term of office.⁹⁶

16. The Competition Commission may, by reasoned decision, after a relevant hearing, remove the heads of the Directorate-General, Directorates, units and offices of the Competition Commission before the end of their term of office, for reasons attributable to improper exercise of their duties, and in particular for undue leniency or lack of

⁹³ As amended by Article 17 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 12, the first subparagraph is amended in terms of scope and the fourth subparagraph in terms of the consequences of a lawyer's recruitment to a post of a specialized scientific staff and a new last subparagraph is added.

⁹⁴ As added by Article 17 of Law 4886/2022 with effect on 24/1/2022.

⁹⁵ As added by Article 17 of Law 4886/2022 with effect on 24/1/2022.

⁹⁶ As added by Article 17 of Law 4886/2022 with effect on 24/1/2022.

impartiality when drafting evaluation reports, for improper exercise or inability to exercise control over officials, inappropriate behavior towards citizens, evasion of responsibility, reluctance to apply new methods for organisation, operation and efficiency, undue delay in case handling, poor cooperation with other superiors and reduced qualitative and quantitative performance.⁹⁷

Article 21a⁹⁸

Method of selection of expert consultants - scientists

1. The Competition Commission may conclude public contracts for two years in accordance with the procedure referred to in paragraph 2 for the provision of specialised advisory services, with international standing scientists with experience in matters of economics, competition and technology or data science. By submitting their tenders, scientists may rely on the experience of third parties as their collaborators and their offers shall be evaluated in this respect. The object of these services is the development of guidelines and economic policy instruments, the mapping of market competition conditions, the development of algorithms and specialised technological tools, as well as the promotion of scientific training and evaluation of Commission officials. Scientists maintain independence vis-à-vis the Competition Commission. Furthermore, they are subject to an obligation of confidentiality and are obliged to conclude relevant confidentiality clauses or contracts. By decision of the Competition Commission, issued on a proposal by its President and published in the Official Gazette, the duration of the contract for the provision of independent services for two further (2) years may be extended. The compensation of scientists shall be determined by decision of the Competition Commission. Scientists during the contract must refrain from providing any service to undertakings whose practices concern the Competition Commission or the European Commission or the Competition Authorities of other countries, as well as from research projects financed by those undertakings. At the end of the contract for the provision of independent services or, for whatever reason, such a solution, scientists are not permitted, in any way, to provide a service with a paid mandate or any legal relationship to a company or undertaking, involved in cases, of which they themselves took any knowledge during the contract for the provision of independent services. Furthermore, it is not allowed for a period of one (1) year after the conclusion of the contract or for any reason to withdraw, or two (2) years in the event of an extension of the contract, to take the defence of cases before the Competition Commission or to bring proceedings before the courts against decisions of the Competition Commission or the representation of the parties to civil courts because of infringements of competition law, which are carried out after a decision by the Competition Commission. Breach of the obligations referred to in the preceding subparagraph shall lead to the imposition of a fine, up to 10% of the compensation paid to them in the performance of the contract. The

⁹⁷ As added by Article 17 of Law 4886/2022 with effect from 24/1/2022.

⁹⁸ As added by Article 238 of Law 4782/2021 with effect on 9/3/2021.

fine shall be imposed by decision of the Competition Commission at the request of the President. The action referred to in Article 30 may be brought against the decision imposing a fine.

2. The award of the contract referred to in paragraph 1 shall be carried out by means of a restricted procedure in accordance with the procedure laid down in paragraph 1. 4412 / 2016 (A "147) on public procurement. The decision of the President of the Competition Commission sets out the terms of the contract notice. The result shall be published as provided for in the provisions of Regulation No 4412 / 2016 on public procurement. The selection of service providers shall be made by decision of the Committee on Competition, after consulting the Special Committee of Experts set up by the plenary, on a proposal from its President. The Commission shall draw up a list of the five (5) nominees in order of priority. The Special Committee, which proposes candidates service providers, relevant to the Competition Economist, consists of: (A) a former Chief Competition Economist of the European Commission or one (1) current or former Chief Competition Economist of a Member State of the European Union, (b) one (1) economist specialised in competition economics, a doctorate degree holder, with an experience of at least ten (10) years in the application of competition law.

The Special Committee to propose candidates service providers in the field of technology or data science consists of: (A) one (1) former Director General for Competition of the European Commission or one (1) current or former President or Director-General for Competition of a Member State of the European Union and (b) two (2) members of a Directorate-General for Teaching Research Personnel (TRP) with a corresponding specialisation.

Article 21b⁹⁹

Procedure for selecting and appointing Heads of Units the Competition Commission

1The Competition Commission is excluded from the scope of Articles 84-86 of the Public Service Code (L. 3528/2007).

2. The selection of heads of unit of the Directorate-General for Competition (DGC) of the Competition Commission (CC) and those placed under the authority of the President of the CC, as defined in its Organisation, is based on an objective assessment of the suitability of each candidate, based on the respective approved post profile included in the Competition Commission's Organisation. The selection shall be carried out by decision of the relevant Selection Boards (SB) under paragraph 10, following a public notice for the post, through the Human Resources Department. The heads of the organisation units shall be selected for a term of four years.

3. The selection of heads of the Separate offices in the Competition Commission is based on an objective assessment of the suitability of each candidate, based on the respective approved profile for the post. The heads of the Commission's separate offices shall be

⁹⁹ As added by Article 71 of Law 4795/2021 with effect from 17/4/2021.

selected for a term of four years. The selection shall be carried out by decision of the President of the Competition Commission and in the case of DGC's separate offices, following a proposal and opinion of the Head of the Directorate-General.

4. a) The public notice referred to in paragraphs 2 and 3 shall be issued five (5) months before the end of the term of office of the Head of Administration and shall be published on the website of the Competition Commission and the Supreme Council for Civil Personnel Selection (A.S.E.P.) and two (2) daily newspapers in Athens, in editions at intervals of at least five (5) calendar days. The application shall be in place of a declaration on honor and shall be accompanied by a detailed curriculum vitae, drawn up at the responsibility of the applicant and any other document referred to in the notice, which forms an integral part of the application. Candidates who do not comply with the conditions of law and of the notice shall be excluded from the further procedure by decision of ASEP.

b) The notice shall determine heads vacancies, the terms and conditions for participation in the selection process, the main or additional qualifications required to fill the position of responsibility, as determined by the relevant approved post description contained in the Organisation of the Competition Commission and the notice.

Eligible to apply are all those who meet the terms and conditions of law and the notice, as specified in the Organisation of the Competition Commission, and are subject to the provisions of paragraphs 4 and 5 of Article 21. Candidates may apply for no more than five (5) posts per position of responsibility (Unit, Directorate, Directorate-General).

5. For the selection of heads, the following three (3) sets of criteria shall be taken into account:

A) scoring based on formal and educational qualifications;

B) scoring based on work experience and exercise of duties of responsibility, and

C) scoring on the basis of a structured interview.

6. For the final scoring, the score for each category shall be multiplied by the following coefficient per level of responsibility:

Sets of selection criteria for Heads - Head of Separate Unit - Head of Directorate – Head of Directorate-General

A' formal and educational qualifications	35%	25%	25%
B' Work experience and exercise of duties of responsibility	30%	30%	25%
C' structured interview	35%	45%	50%

7. Formal qualifications (criterion A) are described as follows: a) The second degree, if it is higher education, with 100 points. b) Relevant postgraduate degree, of at least one year duration, with 200 points and non-relevant postgraduate degree with 70 points. In any case, for the above points the postgraduate degree must have been obtained after receiving the basic degree. Postgraduate degrees, which are integrated in the basic degree within the meaning of article 46 of law 4485/2017 (A '114), if they are relevant, are scored

with 150 points. In case of holding more than one (1) postgraduate degree relevant to the post, they receive a total of 100 credits, while non-relevant receive 40 credits.

c) Doctoral degrees, with 350 points. Non-related doctoral degree, with 150 points. In the case of possession of more than one (1) doctoral diplomas relevant to the subject matter of the post-natal position, they shall receive a total of 150 points, while not related to 50 points.

d) The relevance shall be established by the competent Selection Board on the basis of the subject-matter of the post, as is apparent from the relevant provisions of the Organisation, the post profile and the notice.

e) The certified language proficiency shall be scored up to 140 points, as follows:

Excellent knowledge of English with 50 points, very good knowledge of English with 30 points and an excellent knowledge of any other foreign language with 45 points. All the qualifications referred to above must be evidenced as specified in PD 50/2001 (A' 39). The total number of points which a candidate may receive from formal qualifications, may not exceed 1,000 points.

8. Work experience and performance of responsibilities (criterion B) are scored and calculated as follows:

a) Each month of actual experience, except for the time spent in a position of responsibility both in the Public and non-Public Sector, is scored with 1.5 points with a maximum of 396 months, namely 33 years.

b) Each month of actual experience in a post of responsibility is scored with 2.5 to 7 points depending on the relevance and level of experience in relation to the position to be filled, as evaluated by the Selection Council as well as any relevant information on their outstanding performance in their duties. The relevance is judged by a reason from the Selection Council based on the subject-matter of the post, as it results from the relevant organisational provisions, the outline of the position of responsibility and the announcement. Excellent performance is judged on the basis of available evidence, in particular evaluation reports, and at least two (2) letters of recommendation from employers or supervisors to candidates from the private sector. The scoring of the time of exercising responsibilities cannot exceed a total of ninety-six (96) months, namely eight (8) years in total.

c) Work experience of at least two (2) years in a Competition Authority and / or in an Independent Regulatory Authority responsible for the economic regulation of markets and / or monopolies in Greece or in another EU member state or the European Free Trade Association or the OECD, with 300 points.

d) Service or employment time longer than fifteen days, if continuous, is considered as a full month.

e) A candidate who has held a position of responsibility, of any level, over ninety-six (96) months, i.e. over eight (8) years in total, for the period exceeding ninety-six (96) months is scored with 1.5 points for each month of actual exercise of the above duties.

f) The total points that a candidate can receive from work experience and the exercise of responsibilities cannot exceed 1,000 points.

9. The structured interview (criterion C) shall be conducted by the competent Councils in paragraph 10, providing for the necessary "live assistance" for persons with disabilities (e.g. sign language interpreters), where required.

The purpose of the structured interview is for the competent Council to formulate an opinion on the personality, ability and suitability of the candidate for the performance of the duties of responsibility for which he/she is assessed. At this stage, account shall be taken of: (A) in the case of a candidate from the Public Sector, the details of the employee's personal Register and his / her evaluation, the application form and his / her detailed curriculum vitae, which is prepared under the responsibility of the candidate and certified by the human resources department of the Competition Commission; and b) if it is a private sector candidate, the application form, his detailed CV, which is prepared under the responsibility of the candidate and serves as a responsible statement, and any other document or evidence submitted in accordance with the notice. For the structured interview, each candidate is invited separately.

The structured interview includes two thematic sections:

aa. Structured discussion on issues related to domain of activity of the Competition Commission, as well as the responsibilities and actions of the organisational units related to the post in relation to the skills and qualifications of the candidate and his / her ability to apply innovative methods of organisation, operation and or take initiatives in this direction, as evidenced by his detailed CV and any other evidence he has provided in accordance with the notice.

BB. Development of a situational interview (situational interview) that aims to evaluate both the skills of synthetic and analytical thinking, which allows the candidate to propose effective and innovative solutions to address issues that arise when handling cases falling within the competence of the Competition Commission, as well as administrative candidate's ability to plan, coordinate, take initiatives, make effective decisions, solve problems and manage crises.

The scoring also takes into account communication skills, time-management skills, leadership qualities especially in stressful situations, the ability to coordinate working groups and especially the creativity of the candidate.

The first part of the interview is scored with up to 600 points, while the second with 400 points. The total number of points that a candidate can receive from each member cannot exceed 1,000 points.

The final score of the interview criterion is the average scoring by the members of the Selection Board, after discussion and exchange of substantiated views that takes place

after the end of the interview of the candidate and is recorded in the Minutes of the SB. The content of the interview with its critical and essential points is briefly mentioned in the minutes of SB. A necessary and crucial element of the minutes is the scoring for each candidate, which is briefly justified by each member for each of the two parts (thematic units) of the interview. The members of the SB are obliged to submit the scores of the candidates to the secretariat of the relevant SB, immediately after the end of all the interviews.

By decision of the Competition Commission's Plenary, the procedure for conducting the structured interview and any other necessary details shall be determined.

10. In the Competition Committee (CC), a Heads Selection Board (SB) is established, which is formed on a case-by-case basis and which is responsible for: b) for conducting structured interviews (criterion C) for the selection of the heads of each organisational unit.

By decision of the Competition Commission's Plenary, the President and the members of each Board are appointed with their deputies, as well as the employees of the EA, category SSS, UE, TE and SE, who will act as secretaries in each meeting. The secretaries shall be appointed by the President of the Board. The SB consist of five members, namely:

a) the President of the CC, b) three (3) members of the CC's Plenary c) one (1) University Professor, of at least full professor or its equivalent in Foreign Universities, active or not, specialised in competition law or industrial economics and competition economics or statistics or information technology, as appropriate.

11. The candidates who do not meet the conditions of law and the notice are excluded from the further procedure with a decision of the SB, which is registered in the minutes and a relevant table is compiled. The other candidates are scored based on the criteria groups A and B of the present. Then the SB, based on the above scoring compiles a ranking table for each advertised position in descending order of score and within three (3) working days posts the Table on the website of the Competition Commission. Against this Table, objections may be submitted before the SB, within an exclusive period of three (3) working days from the date of posting of the Table on the website of the Competition Commission. Objections submitted after the expiry of the period referred to in the preceding subparagraph shall be rejected as inadmissible. After the examination of the submitted objections, if there are changes in the ranking list, the reformed Table for each announced position is posted on the website of the Competition Commission and based on this Table the candidates are invited for an interview. The structured interview of criterion C by the SB follows. The first nine (9) candidates of each Ranking Table are invited to the interview. By decision of the SB. It is permitted specifically for organic units with similar or identical subject matter responsibilities, the conduct of the structured interview to concern all of these organic units. In this case, the candidates, who are included in the first nine in the ranking for more than one of the positions of responsibility of the previous paragraph, are called for an interview once by the relevant council and with this score are classified in all the final Rankings. Following the scoring based on the criteria of the

structured interview, the final score is extracted, and the final Ranking Table is prepared for each position, which is posted within three (3) working days on the website of the Competition Commission. The procedure is completed with the placement of the leading candidate in the relevant post by decision of the President of the Competition Commission.

12. The Heads of level of Directorate-General, Directorates and Units may derive from the private or Public Sector, as defined in article 14 of law 4270/2014 (A '143), and it is not required to belong to the staff of the Competition Commission.

13. Any other matter related to the selection procedure not regulated by the provisions of this Article shall be specified in the notice.

Article 21¹⁰⁰

Regulation of matters relating to the staff of the Competition Commission

1. The heads of the organisational units of the Competition Commission that do not belong to the staff of the Competition Commission or to the public sector, as defined in article 14 of law 4270/2014 (AD 143), are appointed, after their selection according to the procedure of article 21B of this law, by decision of the President, with a four-year term, which can be renewed for up to two (2) additional years.

2. The remuneration of the Head of the Directorate-General, the Heads of the Directorates of the Competition Commission and the Heads of the Units of the Competition Commission shall be determined by a decision of the Minister of Finance on the recommendation of the Competition Commission.

3. For leave and facilitation to which the heads of par. 1 are entitled, the provisions that apply in each case to the employees with a fixed-term employment relationship under private law are applied proportionally.

4. The service council and the secondary disciplinary council of article 21, which are responsible for the permanent employees of the Competition Commission, are also competent to give their consent for issues of the superiors of par. 1.

5. The heads of par. 1 evaluate and are evaluated according to the evaluation system that applies to the heads and employees of the Competition Commission.

Article 22¹⁰¹

Evaluation procedure applied by the Competition Commission

1. The Competition Commission is required to initiate, at intervals not exceeding three years, a process of evaluation of its operation, the effectiveness of enforcement of the provisions of law and EU law, as well as the conditions of protection of free competition

¹⁰⁰ As added by Article 18 of Law 4886/2022 with effect from 24/1/2022.

¹⁰¹ As amended by Article 17 of Law 4753/2020 with effect from 18/11/2020.

in general by auditors of recognised standing and credibility. The results of the evaluation are sent without undue delay to the Committee for Institutions and Transparency of the Parliament and are published on the website of the Competition Committee.¹⁰²

2. After a reasoned proposal of the President of the Competition Commission, which takes into account the evaluation study of par. 3, the Commission's Plenary decides on the targeting of the Competition Commission for a period that cannot exceed three (3) years. The targeting decision defines Key Performance Indicators (KPIs), which allow the evaluation of the work of the Competition Commission based on objective quantitative and qualitative criteria. The decision on targeting may be amended by the Plenary of the Competition Commission, on a proposal from the President of the Commission.¹⁰³

3. A group of experts of recognised standing and credibility is established for the elaboration of the Central Performance Indicators (KDA). The group of experts prepares the Evaluation Study of the Committee, according to the Central Efficiency Indicators of the target decision of par. 2, at the latest every two (2) years. The expert group delivers the Study to the Chairman of the Competition Committee and to the President of the Institutions and Transparency Committee of the Parliament, according to the procedure of par. 1. The Evaluation Study is published on the website of the Competition Committee.¹⁰⁴

4. By joint decision of the Ministers of Finance and of Development and Investments, the group of experts of par. 3 is formed, following a proposal of the President of the Competition Commission. The same decision shall determine any other matter concerning the remuneration of the experts and the meetings of the group. The expert group consists of five (5) members, experts of international standing in competition issues, who are selected as follows: one (1) from the Directorate-General for Competition of the European Commission, one (1) from the Chief Economist for Competition of the European Commission for a term of six (6) years, one (1) by the Governor of the Bank of Greece for a term of four (4) years, one (1) by the Minister of Development and Investments and one (1) by the Minister responsible for the General Secretariat of Fiscal Policy and the services subordinated to it for a term of two (2) years. The expert group coordinator is elected by a majority of the group members for each evaluation period. The team consists of at least one (1) University Professor specialised in competition law, one (1) University Professor specialized in industrial economics and competition economics and one (1) Professor of Statistics. Faculty members must be First Level Professors or the equivalent in Foreign Universities, active or not.¹⁰⁵

Article 23

Competence of the Competition Commission to issue Opinions

¹⁰² As amended by Article 17 of Law 4753/2020 with effect from 18/11/2020.

¹⁰³ As added by Article 17 of Law 4753/2020 with effect from 18/11/2020.

¹⁰⁴ As added by Article 17 of Law 4753/2020 with effect from 18/11/2020.

¹⁰⁵ As added by Article 17 of Law 4753/2020 with effect from 18/11/2020.

1. The Competition Commission shall issue an opinion on matters within its competence either on its own initiative or upon request by the Minister of Economy, Competitiveness and Shipping or another competent Minister.
2. The Competition Commission shall issue an opinion on proposals to amend this Law or shall recommend amendments, as appropriate.
3. The Competition Commission shall express an opinion on draft laws and other regulations that may create barriers to the functioning of free competition. The Competition Commission's opinion may be requested by the competent Government body to which it shall be transmitted. The Competition Commission shall express its opinion within forty-five (45) days of the notification of the draft law or regulation. When the time-limit of forty-five (45) days expires, the lack of a relevant opinion shall not prevent the continuation of the procedure. Article 38 shall apply accordingly.
4. If the Competition Commission, pursuant to Article 11 of this Law, finds that conditions of effective competition do not exist, due, inter alia, to legislative acts, it shall issue an opinion recommending that they be repealed or amended. The Commission's opinion shall be submitted to the Minister with jurisdiction and copied to the Minister of Economy, Competitiveness and Shipping.

Article 24

Relations with regulatory authorities

1. The Competition Commission shall cooperate with regulatory or other authorities which monitor particular sectors of the national economy, and shall assist such authorities, upon request, on matters of application of Articles 1 and 2 of this Law and Articles 101 and 102 of the Treaty on the Functioning of the European Union in the relevant sectors. The Competition Commission may also request the assistance of the above authorities in cases where the responsibility of implementing the above articles in those specific sectors lies with it.
2. The provisions of the previous paragraph shall be also valid accordingly for Articles 5 to 10 in relation to concentrations between undertakings that involve the participation of undertakings active in the above specific sectors of the national economy.

Article 25

Powers of the Commission concerning infringements

1. If the Competition Commission, following a relevant investigation carried out either ex officio or following a complaint, finds that Articles 1, 2 and 11 of this Law or Articles 101 and 102 of the Treaty on the Functioning of the European Union have been infringed, it may decide, either alternatively or cumulatively, to:

(a) address recommendations in the event of infringement of Articles 1 and 2 of this Law or Articles 101 and 102 of the Treaty on the Functioning of the European Union;

(b) require the undertakings or associations of undertakings concerned to bring the infringement to an end and refrain from it in future;

(c) impose behavioural or structural remedies, which must be necessary and appropriate for cessation of the infringement and proportionate to its nature and gravity. Structural remedies shall be allowed only where no equally effective behavioural remedies exist or where any equally effective behavioural remedies are liable to be more onerous than structural remedies;

(d) impose a fine, pursuant to paragraph 1 of article 25B, to undertakings or associations of undertakings that committed an infringement intentionally or negligently;

(e) threaten with a fine, pursuant to paragraph 1) or 2 of article 25b or both, where the infringement is continued or repeated;

(f) impose a fine according to par. 1 of article 25B or a financial sanction according to par. 2 of the same article or both, when, by its decision, the continuation or repetition of the violation or the failure by the undertakings or associations of undertakings to fulfil a commitment undertaken by them is confirmed, which has been made compulsory by a decision pursuant to Article 25C, or the non-observance of imposed behavioral or structural measures;

(g) impose a fine according to par. 1 of article 25B or a financial sanction according to par. 2 of the same article or both, to undertakings or associations of undertakings, in case of non-compliance with a decision ordering interim measures pursuant to article 25D

(h) find that the infringement has been committed in the past.¹⁰⁶

2. [Repealed by Article 19 of Law 4886/2022 with effect from 24/1/2022]

3. [Repealed by Article 19 of Law 4886/2022 with effect from 24/1/2022]

4. [Repealed by Article 19 of Law 4886/2022 with effect from 24/1/2022]

5. [Repealed by Article 19 of Law 4886/2022 with effect from 24/1/2022]

6. [Repealed by Article 19 of Law 4886/2022 with effect from 24/1/2022]

7. The undertakings or associations of undertakings are required, within thirty (30) days from the notification of the decision by which the infringement is established or the probability of the infringement and its termination is ordered, to inform the President of the Competition Commission about the actions taken or to be taken to bring an end to the infringement. The same obligation is borne by undertakings or associations of

¹⁰⁶ As amended by Article 19 of Law 4886/2022 with effect from 24/1/2022 and specifically in par. 1, in the first paragraph the reference to the request of the competent Minister is deleted, in indent d) the reference to the cited provisions is corrected, a reference to fault is added and the report on non-fulfillment of a commitment is deleted, in indent e) the reference to the cited provisions is corrected, indent f) is replaced and indents g) and h) are added.

undertakings, when it comes to compliance with a court decision issued following an appeal against a decision of the Competition Commission.¹⁰⁷

8. [Repealed by Article 19 of Law 4886/2022 with effect from 24/1/2022]

9. If the Competition Commission finds a violation of Article 1A, it may, by its decision, impose the measures provided for in indents a) to up to g) of paragraph 1 and Article 25.¹⁰⁸

Article 25a

Settlement procedure

[Repealed by Article 53 of Law 4886/2022 with effect from 24/1/2022]

Article 25B¹⁰⁹

Fines

1. The fine of indents d, e, f and g of par. 1 of article 25 must be effective, proportionate and dissuasive, and can reach up to ten percent (10%) of the total world turnover of the company in the year preceding the issuance of the decision. In case of a group of companies, for the calculation of the fine, the total global turnover of the group shall be taken into account. In determining the amount of the fine, the gravity, the duration, the geographic scope of the infringement, the duration and the type of participation in the infringement of the specific undertaking shall be taken into account.

If it is possible to calculate the amount of the company's financial benefit from the infringement, the amount of the fine imposed may not be less than that, even if it exceeds the percentage set out in the first subparagraph. For the purpose of imposing the fine, the concept of enterprise covers the parent companies, within a single economic entity, the partial and total universal successors in case of corporate transformations and the acquirers of the business after the occurrence of the infringement, if the infringer is unable to pay the fine or other fine imposed at the time of their imposition.

2. The Competition Commission may, by its decision, impose financial penalties per day of non-compliance, which shall be determined in proportion to the average daily total global turnover of the undertaking or association of undertakings prior to the issuance of the decision, capped at three percent (3%) of this turnover and are calculated from the date set by the Commission decision.

3. The Competition Commission, when determining the amount of the fine, shall take into account as a mitigating circumstance any compensation paid to the parties injured by the

¹⁰⁷ As amended by Article 19 of Law 4886/2022 with effect from 24/1/2022. In particular, in the first paragraph of par. 7, the deadline for informing the President of the Competition Commission is thirty (30) days from the notification of the decision.

¹⁰⁸ As added by Article 19 of Law 4886/2022 with effect from 24/1/2022.

¹⁰⁹ As added by Article 20 of Law 4886/2022 with effect from 24/1/2022.

anti-competitive practice in question, or to a significant number of them, in the context of a consensual settlement. If the consensual settlement is pending, the Competition Commission may suspend the issuance of the decision on the imposition of the fine for a period not exceeding three (3) months.

4. Where the infringement committed by the association is related to the activities of its members, the fine may be up to ten percent (10%) of the total global turnover of its members who were active in the market in which the infringement occurred in the year preceding the issuance of the decision. If a fine is imposed on an association of companies, taking into account the total turnover of its members, and the association is not solvent, the association is obliged to request contributions from its members in order to cover the amount of the fine. If the contributions are not paid within the set time limit, the Competition Commission may demand payment of the fine directly from each of the undertakings whose representatives belonged to the association's decision-making bodies. After the Commission has required payment under the previous subparagraph, where necessary to ensure full payment of the fine, the Commission may require payment of the balance by any of the members of the association which were active on the market on which the infringement occurred. The Competition Commission shall not require payment under the preceding subparagraphs from companies which prove that they did not comply with the association's illegal decision because they either did not realise its existence or actively distanced themselves from it before the Competition Commission began investigating the case. The financial liability of each undertaking in respect of the payment of the fine shall not exceed ten percent (10%) of its total global turnover in the preceding financial year.

5. The responsibility for compliance with Articles 1, 1A, 2, 5 to 10 and paragraphs 5 and 6 of Article 11 hereof, as well as Articles 101 and 102 of the Treaty on the Functioning of the European Union lies with the managers of civil and commercial companies and joint ventures and all the general partners, especially in public limited companies the members of the board of directors and the persons responsible for the implementation of the relevant decisions and in listed public limited companies, the executive members of the board of directors, while, in associations of undertakings, their supreme governing body. Designation of any other person as responsible for the violation of competition rules is prohibited. Any responsibility for decisions of the collective bodies of the undertaking or the association of undertakings, taken by a majority, lies solely with those who voted in favor thereof. The above natural persons are liable with their personal property in full with the relevant legal entity, for the payment of the amount of the fine. The Competition Commission may impose on the above natural persons, after their prior hearing, a separate fine from two hundred thousand (200,000) to two million (2,000,000) euros, where it is shown that they have been engaged in preparatory actions, in the organisation of or in the illegal business behavior. For the calculation of the fine, special account shall be taken of their position in the undertaking and the extent of their participation in the unlawful act.

Article 25C¹¹⁰

Commitments

- 1.** If, during a relevant investigation carried out either ex officio or following a complaint, the Competition Commission suspects a violation of Articles 1, 1A and 2 hereof or Articles 101 and 102 of the Treaty on the Functioning of the European Union, it may, by its decision, after seeking the views of market participants, to accept commitments offered by the undertakings or associations of undertakings concerned, making those commitments binding on these undertakings or associations of undertakings. The decision of the Commission may be adopted for a specific period, if it is deemed that there are no grounds for further action. The Commission may, at the request of any interested party or ex officio, reopen the proceedings if there is a substantial change in the facts on which the decision was based, or if the undertakings concerned fail to fulfill their commitments, or if the decision was based on incomplete, inaccurate or misleading information of the companies concerned.
- 2.** The terms, the conditions, the procedure of acceptance of the commitments proposed by the interested undertakings or associations of undertakings and any issues related to the suspension of the deadlines of par. 4 and 5 of article 15 are determined by a decision of the Competition Commission.

Article 25D¹¹¹

Interim measures

- 1.** The Competition Commission takes interim measures ex officio where a breach of Articles 1 and 2 hereof or Articles 101 and 102 of the Treaty on the Functioning of the European Union is suspected arises and there is an urgency due to the risk of serious and irreparable harm to competition.
- 2.** In the context of its power to take interim measures and after summoning the natural or legal person who allegedly committed the alleged infringement to a hearing, the Competition Commission may issue an interlocutory injunction, which is valid until the issuance of the decision on interim measures. If an interlocutory injunction is issued, the interim measures are brought before the Competition Commission's competent chamber or the Plenary, according to par. 6 of article 15, within thirty (30) days, otherwise the interlocutory injunction automatically ceases to apply.
- 3.** If interim measures are ordered, the Competition Commission is required to bring the case before the competent chamber or the Plenary, according to par. 6 of article 15, within twelve (12) months from the issuance of the decision of interim measures, with the possibility of extension of the above deadline for an additional twelve (12) months, otherwise the interim measures automatically automatically cease to apply.

¹¹⁰ As added by Article 21 of Law 4886/2022 with effect from 24/1/2022.

¹¹¹ As added by Article 22 of Law 4886/2022 with effect from 24/1/2022.

4. The Competition Commission has the right to alter or revoke its decision in whole or in part, provided that the grounds for its revocation or alteration have changed.

5. The decision by which interim measures are ordered or revoked, is subject to an appeal before the Athens Administrative Court of Appeal within a period of sixty (60) days from its notification. The decision on the appeal is issued within three (3) months from the hearing.

Article 26

Relieving of competence, suspension or closure of proceedings

1. The initiation of proceedings by the European Commission with a view to issuing a decision pursuant to Chapter III of Regulation 1/2003 relieves the Competition Commission of its competence to apply Articles 101 and 102 of the Treaty on the Functioning of the European Union.

2. The Competition Commission, in circumstances where itself, together with the competition authority of another EU Member State, within the framework of application of Articles 101 or 102 of the Treaty on the Functioning of the European Union, has, following a complaint or ex officio, been seized of a case concerning an agreement between undertakings, a decision by an association of undertakings or a practice of an undertaking or undertakings, may either reject the complaint or, on those grounds, close the proceedings initiated e officio or suspend the proceedings or normally proceed with the discussion of the case, issuing a decision on the substance thereof.

Article 27

Publication of decisions of the Competition Commission

1. The decisions of the Competition Commission, being of individual nature and provided for under this Law, must be specifically reasoned, published in the Government Gazette and posted on the Internet pursuant to the provisions of L. 3861/2010 (A' 112).

2. The Competition Commission may order an undertaking or association of undertakings that infringed this Law to publish the decision issued under Article 25 in a national or local newspaper, depending on the scope of the market in which the infringement occurs as well as its gravity and effects. If the decision of the Competition Commission is annulled by an irrevocable court judgment, the Competition Commission shall be required to publish the decision of the court in the same newspaper at its own expense.

Article 28¹¹²

Cooperation between national competition authorities

¹¹² As amended by Article 23 of Law 4886/2022 with effect from 24/1/2022. The title is replaced.

1. The Competition Commission, as the National Competition Authority, is responsible for cooperation:

(a) with the European Commission pursuant to the provisions of Council Regulation (EC) No 1/2003 of 16 December 2002, for the application of the competition rules on laid down in Articles 81 and 82 TFEU (L 1),

(b) with the competition authorities of the Member States of the European Union designated by those States, pursuant to Article 35 of Regulation 1/2003, to be responsible for implementing Articles 101 and 102 of the Treaty on the Functioning of the European Union, as provided for in Regulation 1/2003, and

c) with the competition authorities of other countries bilaterally and within the framework of international and regional cooperation networks. The Competition Commission may conclude memoranda of cooperation with competition authorities of other countries to promote cooperation between them.¹¹³

2. [Repealed by Article 23 of Law 4886/2022 with effect on 24/1/2022].

3. [Repealed by Article 23 of Law 4886/2022 with effect on 24/1/2022].

Article 28A¹¹⁴

Cooperation between competition authorities in the context of investigative measures

1. Where the Competition Commission exercises the powers referred to in Article 39 in the name and on behalf of a competition authority of a Member State pursuant to Article 22 of Regulation (EC) No 1/2003, at the request of that authority, the officials authorised by the Directorate-General for Competition referred to in Article 39 of this law are actively assisted by attending officials and other accompanying persons authorised or designated by the requesting competition authority under the supervision of officials of the Competition Commission. The order of par. 2 of article 39 refers to the act of authorisation or appointment of the employees of the requesting authority and the other persons accompanying them.

2. The Competition Commission may instruct in writing officials of the Directorate-General for Competition to attend and actively assist a competition authority of a Member State, which carries out in the territory of the latter, in the name and on behalf of the Competition Commission, an investigation or statement, according to Article 22 of Regulation (EC) No 1/2003. To this end, the Competition Commission submits an application to the national competition authority concerned.

3. At the request of a competition authority of a Member State, the Competition Commission may, in the name and on behalf of that authority, exercise the powers of Articles 38 and 39 hereof in order to determine whether undertakings or associations of

¹¹³ As amended by Article 23 of Law 4886/2022 with effect from 24/1/2022 and, in particular, in par. 1, indents a) and b) are replaced and indent c) is added.

¹¹⁴ As added by Article 24 of Law 4886/2022 with effect from 24/1/2022.

undertakings which fall within its scope of this Law, do not comply with the investigative measures ordered and the decisions issued by the requesting authority in procedures for the application of Articles 101 and 102 of the Treaty on the Functioning of the European Union.

4. The Competition Commission may request a competition authority of a Member State to take any investigative measure on its territory, in accordance with its national law, in the name and on behalf of the Competition Commission, in order to determine the extent to which undertakings or associations of undertakings do not comply with investigative measures ordered or decisions issued by the Competition Commission.

5. The information collected under paragraphs 3 and 4 may be exchanged and used as evidence in accordance with Article 12 of Regulation (EC) No 1/2003.

6. If requested by the authority to which the request referred to in paragraph 4 is submitted, the Competition Commission shall reimburse in full all reasonable costs incurred in carrying out the investigative measures, in particular for translation, labor and administrative costs, including the costs of paragraph 4. 2. The Competition Commission may submit to the applicant authority of par. 3 an application for reimbursement of the expenses incurred during the conduct of investigative measures in its name and on its behalf, including the expenses of par. 1.

Article 28B¹¹⁵

Service of documents of competition authorities

1. At the request of a competition authority of a Member State, the Competition Commission shall serve on undertakings, associations of undertakings or natural persons falling within the scope of this Regulation, on behalf of that authority, the following documents:

(a) statements of objections and any corresponding document within the meaning of Article 15 hereof in relation to an alleged breach of Articles 101 or 102 of the Treaty on the Functioning of the European Union (TFEU);

(b) decisions to which Articles 101 or 102 TFEU apply;

(c) any other procedural document issued in in the context of proceedings for the application of Articles 101 or 102 TFEU and must be served; and

(d) any other document relating to the application of Articles 101 or 102 TFEU, including documents relating to the enforcement of decisions of the requesting authority imposing fines or penalties.

Article 48 hereof shall apply to the service procedure.

¹¹⁵ As added by Article 25 of Law 4886/2022 with effect from 24/1/2022.

2. The Competition Commission may request the competition authority of a Member State to serve on its behalf the documents referred to in paragraph 1.

The service report issued by the requested authority is a sufficient proof of service. The report issued by the requested authority is sufficient to prove performance.

3. The request referred to in paragraphs 1 and 2 shall be accompanied by a single instrument to which a copy of the deed to be served on a consignee, which falls within the scope of this Law or the law of the Member State, where appropriate, shall be attached. The uniform instrument includes the following:

(a) the name and known address of the consignee and any other relevant information or information relevant to the identity of the consignee;

b) a summary of the relevant facts and circumstances;

(c) a summary of the attached copy of the act to be served or implemented;

(d) the name, address and other contact details of the requested authority; and

(e) the time limit within which notification must be made, such as legal time-limits or limitation periods.

4. The uniform instrument is forwarded to the Competition Commission in the Greek language, unless otherwise agreed bilaterally. The deed to be served is subject to translation into Greek.

5. The Competition Commission rejects the application of par. 1, if the application or the uniform instrument does not meet the conditions of this article, or the realisation of the service is manifestly contrary to public policy. Where the Competition Commission intends to reject the request or where additional information is required, it shall inform the requesting authority. Otherwise, it performs the service without delay.

6. If requested by the authority to which the request referred to in paragraph 2 is submitted, the Competition Commission shall reimburse in full all reasonable costs incurred in connection with the service, in particular translation, labor and administrative costs. The Competition Commission may submit to the applicant authority of par. 1 a request for reimbursement of the expenses incurred in connection with the service of the deeds of par. 1.

Article 28C¹¹⁶

Enforcement of decisions from competition authorities of Member States

1. At the request of a competition authority of a Member State, the Competition Commission shall take all necessary steps, under Article 49 of the Treaty, for the enforcement of decisions imposing fines or periodic penalty payments, issued in proceedings for the application of Articles 101 or 102 of the Treaty on the Functioning of

¹¹⁶ As added by Article 26 of Law 4886/2022 with effect from 24/1/2022.

the European Union (TFEU), if the decision is final and the undertaking or association of undertakings against which the fine or periodic penalty is enforced does not have sufficient resources in the Member State of the requesting authority to be able to recover the fine or penalty. In particular, the Competition Commission shall, on behalf of the applicant authority, forward the request and all the necessary documents and information referred to in paragraph 4 to the competent authority of the Independent Authority for Public Revenue (I.A.P.R.) or to any other competent authority, in accordance with Article 49. The competition authority of a Member State shall certify the Competition Commission's failure to recover the fine or penalty in accordance with the first subparagraph.

2. At the request of a competition authority of a Member State, the Competition Commission may in other cases, which are not covered by par. 1, implement final decisions under par. 1 for the imposition of fines or penalties, which were issued in the context of the application of Articles 101 or 102 TFEU. This is particularly the case where the undertaking or association of undertakings against which the fine or periodic penalty is enforced has not an establishment in the Member State of the requesting authority.

3. The Competition Commission may request from a competition authority of a Member State the enforcement of its final decisions imposing fines or periodic penalty payments in proceedings for the application of Articles 101 or 102 TFEU.

4. Article 28B shall apply to requests under paragraphs 1, 2 and 3. The request is accompanied by a copy of the act to be implemented. The uniform instrument, in addition to the elements defined in par. 3 of article 28B, shall also include the following:

(a) information on the decision authorising implementation in the Member State of the requesting authority;

b) the date of final decision;

(c) the amount of the fine or the periodic penalty; and

(d) information demonstrating the reasonable efforts made by the applicant authority to enforce the decision in its territory.

The uniform instrument, which allows enforcement, is the only enforceable instrument and does not require recognition.

5. The Competition Commission rejects the request of par. 1 if the request or the uniform instrument does not meet the requirements of this article, or the execution is manifestly contrary to public policy. When the Competition Commission intends to reject the request, or when additional information is required, it shall inform the requesting authority. Otherwise, it carries out the implementation requested without delay.

6. For the execution of the requests of par. 1 and 2, the Competition Commission, as appropriate, converts into euros the fines or the periodic penalties imposed in another currency, at the exchange rate valid on the date on which fines or periodic fines were imposed.

7. If the authority to which the application referred to in paragraph 3 is submitted does not recover the enforcement costs from the fines or recurring fines collected, or from the undertaking against which the fine or recurring fine is enforced, the Competition Commission, at the request of the requested authority, shall reimburse in full all costs incurred in connection with the implementation, in particular translation, labor and administrative costs.

8. The Competition Commission, the competent service of I.A.P.R. or any other competent authority, as appropriate, shall be entitled to recover the full costs in relation to the enforcement measures of paragraphs 1 and 2 from the fines or periodic penalties collected in the name of the requesting authority, including translation, labor and administrative costs. If fines or periodic penalties are not collected, the Competition Commission, or any other competent authority, as appropriate, may request the applicant authority to bear the costs. The Competition Commission, the competent Service of I.A.P.R or any other competent authority, as appropriate, may recover the enforcement costs from the undertaking against which the fine or periodic penalty is enforced. The uniform instrument shall be enforceable title for the collection of costs.

Article 28D¹¹⁷

Disputes over requests for notification or enforcement of decisions imposing fines or periodic penalty payments

1. Disputes concerning legality of (a) the deed to be notified under Article 28B or the decision to be enforced under Article 28c and (b) the uniform instrument under Articles 28B and 28C shall fall within the jurisdiction of the authorities and courts of the Member State applicant authority and are governed by the law of that Member State.

2. Disputes concerning the validity of the notification and the enforcement measures taken under the national law of the requested Member State shall be within the jurisdiction of the national authorities and courts of that Member State and shall be governed by that national law of that Member State.

Article 29

Annual Report of the Competition Commission

The Competition Commission shall, by 31 March of each year, submit an annual report to the President of the Hellenic Parliament, containing information on its activity, on the application of the criteria set for priority examination of cases and the pursuit of its

¹¹⁷ As added by Article 27 of Law 4886/2022 with effect from 24/1/2022.

strategic objectives, its decisions and its assessments regarding the situation and developments in the field of its competence.¹¹⁸

Article 29A¹¹⁹

Settlement procedure

By decision of the plenary of the Competition Commission, a procedure for settlement may be established for undertakings which admit their participation in the horizontal restrictive practices attributable to them in violation of article 1 of this law or/and article 101 of the Treaty for the Functioning of the European Union. This decision covers the following issues:

- a) The terms and conditions for placing under the settlement procedure;
- b) The stage of the procedure at which the party under investigation may submit an request to settle, at the latest until the submission by said party of the first written statement after notification of the statement of objections;
- c) The procedure to be followed, in order to reach a settlement. This procedure will mandatorily include the acknowledgement by the investigated party of the attributed violation as a condition for settlement. In case settlement is not eventually reached, the statement of the party under investigation concerning acknowledgement of the violation, as included in its written statements, is considered revoked and cannot be taken into consideration by the Commission or the courts;
- d) Access to the case file by settling parties in the context of the settlement procedure and the possibility or impossibility thereof of using statements and evidence submitted by the parties during this procedure, without prejudice to relevant EU provisions;
- e) The possibility or impossibility thereof of a separate settlement in case of multiple parties under investigation, of which only some consent to the settlement;

¹¹⁸ As amended by Article 28 of Law 4886/2022 with effect from 24/1/2022 and specifically amended as to the time-limit for submission and the subject of the report of the Competition Commission, a second subparagraph is added.

¹¹⁹ As added by Article 29 of Law 4886/2022 with effect from 24/1/2022. According to Law 4886/2022 “Article 52 Transitional provisions:

1. Until the issuance of the decision of the Competition Commission under article 29 A of law 3959/2011 (A’ 93) on the settlement of cases, the current decision of the Competition Commission, as appropriate, regarding the terms, conditions and the settlement procedure shall apply.

The provisions of this Article on the settlement of cases, including the provisions of this Article for the possibility to settle, shall also apply to cases pending before the Competition Commission after their entry into force upon their publication in the Government Gazette. Cases pending means those for which the Competition Commission's deliberations on the case have not been concluded. In particular with respect to pending cases for which a statement of objections has already been served on the parties, the provisions of this Article shall apply by way of derogation from the provisions relating to the time-limits for initiating the settlement procedure or any other procedural restrictions.”

f) The possibility that the Commission, in case a settlement is reached, of reducing the fines imposed. This reduction may not exceed 15% of the fine that would be imposed in the event of no settlement, as this fine would be calculated following a possible reduction according to paragraph 8 of article 29E;

g) Issues of transitional law; and

h) Any other necessary issue.

In case of settlement, the Commission issues a decision under the simplified procedure, which, inter alia, establishes that the violation under investigation has been committed as well as the settlement reached, and the appropriate sanctions are imposed.

Article 29B¹²⁰

Leniency programme for secret cartels

1. A decision of the Competition Commission taken in Plenary shall determine the terms and conditions for exemption from or reduction of fines of articles 25 and 25B imposed on undertakings and associations of undertakings which participated independently in a horizontal cartel and on persons who contribute to the investigation of horizontal restrictive practices (cartels) under Article 1 of this law or Article 101 of the Treaty on the Functioning of the European Union (Leniency Programme).

2. The decision referred to in par. 1 covers the following issues:

(a) the terms and conditions for the exemption from the imposition of fines or the reduction of the fines referred to in Articles 25 and 25B hereof and the minimum requirements for the provision of evidence;

b) the type and content of the full or short form leniency applications and the accompanying declarations, the accompanying documents, the process of their submission and receipt, as well as the procedure followed for their evaluation. The decision the Competition Commission referred to in par. 1 provides in particular:

(ba) the possibility for applicants to submit written statements accompanying full or short form applications for leniency;

(bb) the possibility for applicants to submit declarations accompanying full or short form applications for leniency in one of the official languages of the European Union, by mutual agreement between the Competition Commission and the applicant undertaking or natural person;

bc) the procedure for receiving the full or short form applications for leniency and the accompanying declarations. This procedure also provides for the possibility of the Competition Commission to receive the declarations that accompany the application for leniency, orally or through other means deemed appropriate, at its discretion, which allow the applicant not to be in possession, or have under his supervision, or control of such

¹²⁰ As added by Article 30 of Law 4886/2022 with effect on 24/1/2022.

submitted declarations. To this end, the Competition Commission must dispose of the appropriate reregistration means;

bd) the issuance of an acknowledgement of receipt of the application for leniency and the information submitted, in which the date and time of receipt are certified;

(c) the procedure for informing applicants of the progress of their applications, in particular the granting of a conditional exemption from fines (provisional exemption) and the possibility for the applicant to submit a written request for information on the outcome of the application submitted for exemption from fines;

(d) the access of the participants to the alleged infringement, to the applications for leniency, as well as to the declarations and the accompanying documents and evidence;

(e) the grant of a marker to requests for reduction of fines and the minimum information accompanying the request for a marker for requests for reduction of fines and the language of the request for a marker for requests for reduction of fines;

(f) issues of temporal application; and

g) any other relevant issue.

3. The Competition Commission, where the relevant conditions are met, grants the benefit of leniency with its final decision on the case, which, among other things, establishes the infringement, confirms the fact of submission and approval of the submitted applications for leniency, grants an exemption from the fines of Articles 25 and 25B or a reduction of the fines of the same Articles, determines the amount of the per applicant undertaking, association of undertakings or natural person and the appropriate sanctions are imposed.

Article 29C¹²¹

General conditions for Leniency

Full or partial immunity from fines may be granted to the applicant, provided, in any case, that at least the following conditions must be met cumulatively:

(a) the applicant cooperates fully, genuinely, on a continuous basis and expeditiously with the Competition Commission, from the time it submits its application throughout the Commission's administrative procedure for the examination of the case for all parties involved, and in particular:

(aa) provide the Competition Commission, without delay, with all information and evidence which it possesses, or subsequently possesses or is available to it, or to which it has access in any way relating to the alleged infringement, and in particular its names and addresses as well as those of all the undertakings participating or have participated in the alleged infringement, a detailed description of the alleged infringement, including the products and areas affected and the duration and nature of the infringement, information

¹²¹ Όπως προστέθηκε με το Άρθρο 31 Ν. 4886/2022 με ισχύ την 24/1/2022.

on any leniency application submitted to any other competition authority of a Member State of the European Union, the European Commission or the competition authorities of third countries in connection with the alleged infringement;

ab) to remain at the disposal of the Competition Commission to respond, without delay, to any question or request that may contribute to the establishment of the relevant facts;

(ac) not to destroy, distort, falsify or withhold any information or evidence that may contribute to the establishment of the alleged infringement;

(ad) not to disclose to a third party, with the exception of other competition authorities and the European Commission, the fact that it has submitted an application for Leniency or the content thereof, until the undertakings concerned have been served with the Statement of Objections, unless otherwise agreed with the Competition Commission;

(ae) in particular with regard to the requesting undertaking, to make its directors, managers and other staff members available to the Competition Commission for witness statements in the context of the case and to make reasonable efforts to make former directors, managers and other staff members available to the Competition Commission for witness statements;

(b) with regard to the applicant undertaking or association of undertakings, to terminate its participation in the alleged infringement at the latest immediately after the submission of the application for Leniency. By the decision of Article 29B, the Competition Commission may provide for an exemption from the fulfilment of this obligation, in order to safeguard or facilitate its investigation regarding the alleged infringement;

c) the applicant, during the period of examination of the possibility of submitting an application for Leniency:

(ca) not to destroy, falsify or withhold information or evidence of the alleged infringement; and

(cb) not to disclose to any third party, with the exception of other competition authorities and the European Commission, the fact that it intends to apply for Leniency or the content or part of the content of its application."

Article 29D¹²²

Immunity from fines

1. The Competition Commission shall grant to an undertaking, an association of undertakings or a natural person immunity from the fines set out in Articles 25 and 25B, provided that the applicant:

a) admits its participation in a horizontal cartel of Article 1 hereof or Article 101 of the Treaty on the Functioning of the European Union (TFEU),

¹²² As added by Article 32 of Law 4886/2022 with effect from 24/1/2022.

(b) has not sought to compel other undertakings to join or remain in the cartel; in the context of this cartel, it has not taken steps to coerce other undertakings to join it or to remain in it;

(c) be the first to submit to the Competition Commission evidence which:

(ca) either provide, at the time of the application, the Competition Commission with the possibility to carry out a targeted investigation in relation to a possible horizontal cartel for which the Competition Commission did not previously have sufficient evidence to carry out such an investigation or had not already carried out such an investigation;

cb) or, at the discretion of the Competition Commission, it is sufficient to establish a horizontal cartel of Article 1 of this law or Article 101 TFEU, for which the Competition Commission had not, by the time of the application, sufficient evidence allowing it to establish an infringement of Article 1 of this law or of Article 101 TFEU and no other undertaking meets, at the time of the application, the conditions for an exemption of indent ca) regarding the infringement;

d) it meets the general conditions for benefiting from the immunity from fines set out in Article 29C.

2. Should the request for exemption be rejected, the applicant may request the Competition Commission to examine his application as a request for a reduction of the fine.

Article 29E¹²³

Reduction of fines

1. The Competition Commission shall grant an undertaking, an association of undertakings or a natural person a reduction of the fines laid down in Articles 25 and 25B where:

a) it does not meet the requirements for granting immunity from the fines laid down in Articles 25 and 25B;

b) admits its participation in a horizontal cartel referred to in Article 1 of this law or Article 101 of the Treaty on the Functioning of the European Union;

c) provide the Competition Commission with evidence of the alleged infringement, which has significant added value at least, in relation to the evidence concerning the alleged infringement already in the possession of the Competition Commission at the time of the request;

d) it meets the general conditions for granting immunity from the the fines set out in Article 29C.

¹²³ As added by Article 33 of Law 4886/2022 with effect from 24/1/2022.

2. If the applicant requesting a reduction of the fine provides the Competition Commission with irrefutable evidence of new facts giving rise to an increase in the fines to be imposed on the participants in the infringement as compared with the fines which would otherwise have been imposed without the new evidence, the Competition Commission shall not take into account this evidence as inculpatory in calculating the amount of the fine to be imposed on the applicant who have provided such evidence.

Article 29F¹²⁴

Marker

1. The Competition Commission, at its discretion, following a reasoned request by the undertaking, association of undertakings or natural person wishing to apply for immunity from fines, grants to the applicant a place in the queue for leniency (hereinafter referred to as "marker") for a period to be determined as appropriate. The applicant may submit the request for marker in one of the official languages of the European Union, following a bilateral agreement between the Competition Commission and the applicant.

2. The request for a marker shall contain the information being at his disposal, the applicant shall provide the Competition Commission with the information at its disposal about the horizontal cartel referred to in Article 1 of this law or Article 101 of the Treaty on the Functioning of the European Union, namely:

a) his name and address;

b) the names and addresses of the undertakings which participate, or have participated in the alleged infringement;

c) the affected products and territories;

d) the duration and nature of the suspected infringement; and

e) information on any leniency application that has been submitted in the past or may be submitted in future to any other competition authority of a Member State of the European Union, to the European Commission or to a competition authority of third countries in relation to the alleged infringement.

3. The applicant shall retain the marker granted, provided that, within the specified time period, it provides the information and evidence referred to in Article 29C. In this case, the information and evidence provided by the applicant within the specified period shall be deemed to have been submitted at the time of the submission of request for a marker.

Article 29Z¹²⁵

Short-form application

¹²⁴ As added by Article 34 of Law 4886/2022 with effect from 24/1/2022.

¹²⁵ As added by Article 35 of Law 4886/2022 with effect from 24/1/2022.

- 1.** Undertakings or associations of undertakings that have applied for leniency to the European Commission, either by submitting a request for a marker, or by submitting a full application, may submit a short-form application to the Competition Commission for the same alleged infringement, provided that the application to the European Commission covers more than three (3) Member States of the European Union as affected territories.
- 2.** Short-form applications shall contain a brief description of the information being at the disposal of the applicant, the Member State or Member States where the evidence of the alleged secret cartel and, at least, the evidence referred to in par. 2 of article 29F, is likely to exist.
- 3.** In the event of a submission by an undertaking or association of undertakings of a full application, for the same alleged infringement, to the European Commission and a short-form application to the Competition Commission, the applicant undertaking or association of undertakings shall accept and mainly follow the instructions European Commission, in particular the instructions provided to the applicant on the conduct of any further internal investigation, in the period before clarity has been gained as to whether the European Commission intends to pursue the case in whole or in part. During this period, the Competition Commission may request the undertaking or association of undertakings to provide clarifications only regarding the content of the short-form application according to par. 2.
- 4.** Upon receipt of a short-form application, the Competition Commission shall verify whether a short-form or full leniency application has already been received from another applicant in respect of the same alleged secret cartel at the time of its receipt. If the Competition Commission has not received any such an application from another applicant and considers that the short-form application contains the minimum content specified in paragraph 2, it shall inform the applicant accordingly.
- 5.** If the European Commission informs the Competition Commission that it does not intend to pursue the case in whole or in part, the Competition Commission shall invite the company or association of companies which has submitted a short-form application to it to submit a full application, accompanied by the necessary evidence and information, at the latest within the time limit set by the Competition Commission as appropriate. The information and evidence provided by the applicant undertaking or association of undertakings within the above period shall be deemed to have been submitted on the date of submission of the short-form application, provided that the short-form application covers the same product or products, the same affected territories and the same duration of the alleged infringement as the application for leniency that has was submitted to the European Commission, as updated.
- 6.** If the European Commission has not yet informed the Competition Commission of its intention to pursue the case, the Competition Commission may invite an undertaking or association of undertakings which submitted a short-form application to it, to submit a

full application where this is strictly necessary for case delineation or case allocation between competition authorities.

7. Undertakings or associations of undertakings which have submitted a summary application to the Competition Commission may, at any time, submit a full application to it.

CHAPTER C'

LEGAL REDRESS

Article 30

Appeals before the Administrative Court of Appeal of Athens

1. Decisions by the Competition Commission are subject to appeal before the Administrative Court of Appeal of Athens within a period of sixty (60) days from notification.

2. The deadline for filing appeals and the filing of appeals shall not suspend execution of the Competition Commission's decision. However, the Athens Administrative Court of Appeal (in Council) may, if there is sufficient cause, may suspend the decision at appeal in whole or in part or conditionally following a petition by the interested party, in application *mutatis mutandis* of the provisions of Article 200 et seq. of the Code of Administrative Procedure (Law 2717/1999, A' 97).

In particular, where an appeal is filed against a decision by the Competition Commission imposing a fine, the Administrative Court of Appeal of Athens (in Council) may, by a reasoned judgment, following an appellant's petition, order the suspension of a part of the fine, which cannot exceed 80%. The petition for suspension shall be acceptable up to the above percentage of the fine, subject to the requirements of the principle of proportionality in the case at issue, where it is found that immediate execution of the contested action would cause the applicant irreparable damage or a damage which would be difficult to repair if the appeal is successful. If the court finds that the appeal is manifestly well-founded, it may issue a specially reasoned decision accepting the petition for suspension, even for the whole amount of the fine and even if the damage to the applicant from immediate execution of the contested action is not deemed to be irreparable or difficult to repair. By the decision ordering the suspension of execution or any other appropriate measure, the court may, even in the absence of a relevant request, order any measure needed to safeguard public interest, such as:

a) submission to the Competition Commission by a specified deadline of a letter of guarantee payable on first demand from a solvent credit institution for an amount stipulated in the decision;

b) registration by the Competition Commission of a notice of mortgage on an applicant's immovable property for an amount specified in the decision,

c) deposit of a specific amount in the Consignment and Loans Fund for the benefit of the Competition Commission. The court may order that any other appropriate condition deemed necessary to protect the public interest from the suspension be imposed in lieu of and/or in addition to the above. The granting of stay of enforcement is excluded for the part where the notice at appeal has already been implemented.

The petition for suspension may be rejected, even in the event that the applicant will sustain an irreparable damage or a damage which would be difficult to repair, if the court considers that the appeal is manifestly unacceptable or manifestly without merit. The application may be rejected if, when weighing the damages to the applicant, third parties' interests and the public interest, the court finds that the adverse impact of acceptance it would be more serious than the benefit to the applicant.

3. The following shall have a right of appeal:

a) undertakings or associations of undertakings against which the decision was issued;

b) the person who filed the complaint of infringement of provisions of the present law;

c) the Government, through the Minister of Economic Affairs, Competitiveness and Shipping;

d) any third party with a legitimate interest.

4. Appeals shall be heard on a priority basis following a summons to the Competition Commission. Hearings may only be adjourned once, with sufficient cause, for the nearest possible date to the original hearing, unless there is cause to join several appeals.

5. For the rest, the provisions of the Code of Administrative Procedure in force at the time shall apply.

6. Undertakings or associations of undertakings which engaged in restrictive practices, within the meaning of Articles 1 and 2, with the litigant undertaking or association of undertakings and any third party with a legitimate interest may file a third party intervention in trials governed by the present article.

7. The Competition Commission shall post on its website the decisions issued under this article, with a view to ensuring the protection of personal data and professional secrecy of the litigants.

Article 31

Provisional orders

1. If the court deems possible the acceptance of a request for a provisional order suspending the execution of a decision by the Commission, it must invite the Commission, in the most appropriate manner, at least (24) twenty-four hours before the hearing of the application, to express its opinion on the request in question.
2. If the request in question is accepted, the application for a stay of enforcement shall be listed for hearing at the earliest possible date. The hearing may not be adjourned; if it is, the provisional order shall automatically cease to apply, unless it is extended by the court hearing the application.

Article 32

Legal remedies

1. An application for annulment of rulings handed down by the Athens Administrative Court of Appeal in accordance with the present law may be filed with the Council of State by the parties to the trial before the Administrative Court of Appeal of Athens.
2. The General Prosecutor of the State for the ordinary administrative courts shall be entitled to apply for annulment, even if he was not party to the trial at which the contested ruling was handed down, in which case the deadline for exercising the legal remedy shall be (3) three months from publication of the ruling.
3. Applications for annulment must be heard on a priority basis. Hearings may only be adjourned once, with good cause, for the earliest possible date, unless there is cause to join several applications for annulment.
4. The provisions of Article 52 of Presidential Decree No 18/1989 (A' 8) on suspension of execution of administrative notices contested in an application for annulment shall apply, *mutatis mutandis*, to suspension of execution of rulings handed down by the Athens Administrative Court of Appeal against which an application for annulment is filed in accordance with the present law.

5. For the rest, the provisions governing applications for annulment before the Council of State in force at the time shall apply.

6. Undertakings or associations of undertakings which engaged in restrictive practices, within the meaning of Articles 1 and 2, with the litigant undertaking or association of undertakings and any third party with a legitimate interest may file a third party intervention in trials governed by the present article.

7. The Competition Commission posts on its website any ruling handed down by courts under this article, with a view to ensuring the protection of personal data and professional secrecy of the litigants.

Article 33

Special Division of the Administrative Court of Appeal of Athens

A special division shall be established at the Athens Administrative Court of Appeal to hear appeals, third party interventions, motions for continuance, appeals at second instance and applications for retrial filed in accordance with the present law and any other matters pertaining to proceedings before it shall be regulated by presidential decree issued at the proposal of the Minister of Justice, Transparency and Human Rights and the Minister of Economy, Competitiveness and Shipping.

Article 34

General Prosecutor of the State

1. The provision of Article 29(h) of the Courts Code (Law 1756/1988, A' 35) shall also apply during hearings of legal remedies exercised in accordance with the present law by the General Prosecutor of State.

2. The General Prosecutor of State shall not be obliged to appear before the Athens Administrative Court of Appeal or the Council of State during the hearing of legal remedies exercised by him in accordance with the provisions of the present law. These legal remedies shall be tried as if the General Prosecutor of State were present, even in his absence.

3. The General Prosecutor of State may delegate the exercise of his powers under the present law to the Deputy Prosecutor or any legal deputy.

4. The right of the General Prosecutor of State to apply for annulment of any ruling handed down by an administrative court for the benefit of the law, in accordance with Article 29(h) of the Courts Code (Law 1756/1988) shall be independent of his right to apply for annulment under Article 32(2).

Article 35

Jurisdiction of other courts

1. Rulings handed down by the Administrative Court of Appeal of Athens and the Council of State further to an appeal in accordance with the present law shall have the force of *res judicata*.

2. Without prejudice to the provisions of the previous paragraph, the civil and criminal courts shall apply Articles 1 and 2 of the present law and Articles 101 and 102 of the Treaty on the Functioning of the European Union. Any such ruling shall not be binding on the Competition Commission, the Administrative Court of Appeal of Athens or the Council of State ruling on the basis of the provisions of the present law.

3. Courts of all jurisdictions which apply Articles 101 and 102 of the Treaty on the Functioning of the European Union in accordance with the previous paragraph may ask the European Commission to send them information in its possession or to formulate an opinion on matters pertaining to the application of EU competition law. They may also ask the Competition Commission to formulate an opinion on the above matters and on matters pertaining to the application of Articles 1 and 2 of the present law.

4. The court registrars must send the Directorate-General of Competition of the Competition Commission free copies of rulings in which the provisions of the present law and of Articles 101 and 102 of the Treaty on the Functioning of the European Union are applied and shall bear disciplinary liability in the event of failure to do so. The Competition Commission shall ensure immediate communication of the above rulings to the European Commission.

CHAPTER D'¹²⁶

COMPLAINTS- NO ACTION LETTER

Article 36

Complaints

1. Every natural or legal person shall be entitled to file a complaint of infringement of Articles 1,1A¹²⁷ and 2 of the present law and of Articles 101 and 102 of the Treaty on the Functioning of the European Union with the Competition Commission, which shall act as the public authority for the enforcement of the present law.
2. The form, content, procedural results and method of submission and registration of the complaints referred to in the previous paragraph shall be stipulated by decision of the Competition Commission.
3. The Competition Commission may give differing degrees of priority to complaints received in accordance with the provisions of Article 14(2)(o).
4. The Competition Commission shall assess the information and allegations brought to its attention by the complainant and decide if they constitute evidence of infringement of Articles 1, 1A¹²⁸ and 2 of the present law and of Articles 101 and 102 of the Treaty on the Functioning of the European Union. If no evidence of infringement of the aforementioned articles is established from the evaluation, the complaint shall be deemed to be manifestly without merit in accordance with the procedure described in Article 37.
5. The Competition Commission shall evaluate and rank the complaints the soonest possible in accordance with the provisions of Article 14(2), subindent (i) of indent (n) and indent (o), in compliance with the procedure of examining cases described in Article 15 or Article 37.
6. Civil servants, employees of public-law legal entities, employees of local authorities¹²⁹, employees of public corporations or public utilities and persons authorized to exercise public service must report facts that come to their attention in connection with infringements of Articles 1,1A¹³⁰ and 2 and of Articles 101 and

¹²⁶As amended with Article 36 L. 4886/2022 with effect from 24/1/2022. The title of Chapter D' L. 3959/2011 (A' 93) is replaced by the following: "COMPLAINTS- NO ACTION LETTER".

¹²⁷As amended with Article 37 L. 4886/2022 with effect from 24/1/2022 and in particular with respect to the inclusion in par.1 of reference to article 1A.

¹²⁸As amended with Article 37 L. 4886/2022 with effect from 24/1/2022 and in particular the first sentence of par. 4 with the inclusion of reference to article 1A.

¹²⁹As amended with Article 37 L. 4886/2022 with effect from 24/1/2022 with regard the first sentence of par. 6 with the reference to employees of local authorities.

¹³⁰As amended with Article 37 L. 4886/2022 with effect from 24/1/2022, with respect to the inclusion in par. 6 of reference to article 1A.

102 of the Treaty on the Functioning of the European Union to the Competition Commission, without undue delay. Anyone who fails in their duty under the previous sentence shall be punished by a term of imprisonment of up to six (6) months or a fine of between EUR three hundred (300) and one thousand five hundred (1,500).

Article 37

Summary procedure for complaints

1. Complaints relating to matters which do not fall within the remit of the Competition Commission based on the provisions of the present law shall be placed on file at the Directorate-General of Competition by act of the President of the Competition Commission, on the recommendation of the Directorate-General, within five (5) months of submission thereof. If the complaint falls within the remit of another independent or administrative or judicial authority, the Competition Commission must duly forward it by the above deadline.
2. Complaints of infringements of Articles 1,1A¹³¹ and 2 of the present law and of Articles 101 and 102 of the Treaty on the Functioning of the European Union which are manifestly without merit and which are filed solely with the Competition Commission and not with a competition authority in another Member State of the European Union shall be placed on file at the Directorate-General of Competition by act of the President of the Competition Commission, on the recommendation of the Directorate-General of Competition within nine (9) months of submission thereof.
3. The competent department of the Directorate-General of Competition shall notify the involved parties of the above acts, against which he shall have a right of appeal to the Administrative Court of Appeal. At the end of the year, the President shall advise the Competition Commission Plenary of the number and nature of the cases placed on file during the year and which are published in the website of the Competition Commission.¹³²

¹³¹As amended with Article 38 L. 4886/2022 with effect from 24/1/2022 with respect to the inclusion in par.2 of reference to article 1A.

¹³²As amended with Article 38 L. 4886/2022 with effect from 24/1/2022 and in particular the first sentence of par. 3 with respect the notification of Competition Commission's acts to all involved parties and the second sentence with respect their publication in the website of the Competition Commission.

Article 37A¹³³

No-action letter

1. The President of Competition Commission, following proposal of the Directorate-General for Competition and at the request of the person concerned, may decide by letter on taking no-action with respect to article 1 of this law and/or article 101 of the Treaty of the Functioning of the European Union (TFEU) either because the conditions of article 1(1) of the this law or article 101 TFEU are not met, or because the conditions of article 1(3) of this law or article 101 TFEU are met, on public interest grounds, such as the implementation of sustainable development objectives.
2. The President of Competition Commission, following proposal of the Directorate-General for Competition, may likewise make such a finding with reference to article 2 of this law or of article 102 TFEU.
3. The President of Competition Commission, following proposal of the Directorate-General for Competition, withdraws a letter of no-action issued in accordance with article 1 and 2, if new evidence become available to the Commission, which substantially affect the assessment of the conduct, if the factual circumstances have changed, or if its issuance was based on untrue or misleading information. The withdrawal shall be notified immediately to the undertakings concerned.
4. The no-action letter has no binding effect on the Competition Commission and the courts.
5. By decision of the Competition Commission, the criteria and the conditions under which the letter of par. 1 is issued are specified, following a public consultation, and any other matter pertaining to the application of this law is determined.

CHAPTER E'¹³⁴

Obligations of undertakings and investigative powers – Processing of personal data

Article 38

Request for information

1. When necessary for the exercise of the powers of the Competition Commission stipulated in the present law, the President of the Commission or the Vice-President, Director-General, Director or other official of the Directorate-General for Competition authorised by the President may request in writing information from undertakings, associations of undertakings or other natural or legal persons or public or other

¹³³ As added by Article 39 of Law 4886/2022 with effect from 24/1/2022.

¹³⁴ As amended with the Article 40 of L. 4886/2022, with effect from 24/1/2022. The title of the fifth chapter of Law 3959/2011 (A' 93) is replaced by the following: "Obligations of undertakings and investigative powers - Processing of personal data".

authorities or local and local authorities. The requests comply with the principle of proportionality and do not oblige the addressee to admit the existence of the infringement referred to herein and of Articles 101 and 102 of the Treaty on the Functioning of the European Union. The obligation to provide all necessary information covers information to which the undertaking or association of undertakings, other natural or legal persons or public authorities have access.

The document must quote the legal provisions on which the request is established, the purpose of the request, the time limit by which information must be provided, which shall be no less than five (5) days for information relating to interim measures or decisions based on Article 9(3) or cases of concentrations of Articles 5-10 and ten (10) days in all other cases, and the penalties provided for in the event of failure to comply with the duty of the provision of information. The addressees of the document are required to immediately provide accurate and complete information as requested, as well as to provide oral clarifications upon request. The Competition Commission may request the submission of certain types of information, in particular through the use of an online platform or through an electronic interface and access to electronic data held on the public network.

When the information is requested from undertakings or associations of undertakings, the persons responsible referred to in Article 25B(5) and the competent employees of the undertakings or associations of undertakings are required to provide the information. Persons who do not testify in criminal proceedings are not subject to the obligation to provide information, according to Article 212 of the Code of Criminal Procedure, provided that they comply with the obligation described in paragraph 4 of the same article. The present paragraph shall be without prejudice to provisions governing banking confidentiality.¹³⁵

1A. Where necessary for the exercise of the powers of the Competition Commission defined in subpar. s) of paragraph 2 of Article 14, the President of the Commission, or the Vice-President, or the Director-General, a Director or other official of the Directorate-General authorised by the President may request in writing from undertakings, associations of undertakings or other natural or legal persons or public or other authorities or local and local authorities to provide information to which they have access. The addressees of the request are not obliged to provide the requested information.

The request document must quote the provisions of the law on which the request is established, the purpose of the request, the type of the requested information, the time limit by which information must be provided, which shall be no less than ten (10) days, and the penalties incurred, according to par. 3. The Competition Commission may request the submission of certain types of information, in particular through the use of an online platform or through an electronic interface and access to electronic data held on the private and public network.¹³⁶

¹³⁵ As replaced by Article 41 of L. 4886/2022, with effect from 24/1/2022.

¹³⁶ As added with Article 41 L. 4886/2022, with effect from 24/1/2022.

2. Without prejudice to any *lex specialis* establishing the duty of confidentiality, all public authorities and legal persons governed by public law shall have a duty of information and shall assist the Competition Commission and the employees acting under its authorisation, in the performance of their duties.¹³⁷

2A. For the purpose of establishing infringements of Articles 1, 1A, 2 and 5 to 10 and for the application of Article 11, as well as for the purpose of establishing infringements of Articles 101 and 102 of the Treaty on the Functioning of the European Union, the President of the Commission or the Vice-President authorised by him, or the Director-General, Director or Head of Department, may, at his discretion, and without prejudice to Article 212 of the Code of Criminal Procedure, summon any representative of a company or association of companies, representatives of companies or associations of companies, representatives of other legal persons, as well as any other natural person to sworn or unsworn witness statements. The summons document states the articles of the law, on which it is based, the purpose and the date of the witness statement. The summons is notified to the above persons, at least five (5) days before the date of the statement.¹³⁸

2B. When necessary for the exercise of the powers of the Competition Commission defined in subpar. s) of par. 2 of Article 14, the President of the Commission, or the Vice-President, or the Director-General, Director or other servant of the Directorate-General authorised by him may call to deliberations any representative of a company or association of companies, representatives of companies or associations of companies, representatives of other legal persons, as well as any other natural person, with invitation, which is submitted to the above persons at least five (5) days before the date of the discussion. The invitation must quote the provisions of the law on which the request is based, the content of the discussion and the date of its conduction. For the above purposes, minutes shall be kept. Any other relevant issue is determined by the Rules of Procedure and Management of the Competition Commission.¹³⁹

3. In the event of refusal, obstruction or delay in providing the information requested or refusal to provide oral clarifications or provision of inaccurate, misleading or incomplete information, in the context of application of par. 1 & 2, or in the event that inaccurate, misleading or incomplete information is provided, in the context of application of par. 1A and 2B and without prejudice to criminal sanctions in accordance with Article 44, the Competition Commission shall:

a) in the case of undertakings or associations of undertakings to impose, by its decision, a fine per day of non-compliance, which is defined proportionally to the average daily total world turnover of the undertaking or association of undertakings at the time of the prior financial decision, capped at 3% of turnover and calculated from the date set by the

¹³⁷ As amended with the Article 41 L. 4886/2022, with effect from 24/1/2022.

¹³⁸ As added with the Article 41 L. 4886/2022, with effect from 24/1/2022.

¹³⁹ As added with the Article 41 L. 4886/2022, with effect from 24/1/2022.

relevant decision of the Authority, impose, on the other hand, on their employees a fine of fifteen thousand (15,000) to thirty thousand (30,000) euros per day of non-compliance.

b) in the case of civil servants or employees of public-law legal entities or employees of local or regional authorities, to file an official report, so that disciplinary action can be taken for the above infringements, which are a disciplinary offence.¹⁴⁰

Article 39

Conduct of investigations

1. For the fulfillment of the duties of the Competition Commission provided in this law, the authorised officials of the Directorate-General of Competition shall exercise the powers of tax auditor and shall be authorised in particular:

a) to inspect books, records and other documents, of all type and category, of the undertaking or association of undertakings, including the business e-mails of the undertaking, the directors, the chief executive officers, the managers and the persons entrusted with the administration or management in general and of the staff of the undertaking or association of undertakings, regardless of how and where they are stored, and to take copies or extracts of them and have the right of access to all information to which has access the undertaking inspected;

b) to seize, receive or obtain, in any form, a copy or extract of books, documents, and electronic storage and transmission of information relating to professional information, and, where they deem it appropriate, to continue the investigation for information and to select copies or extracts at premises of the Competition Commission or other designated sites;

c) to inspect and collect information and data from mobile terminals and portable devices and their servers and the cloud computing, in cooperation with the competent authorities on a case-by-case basis, located inside or outside the premises of the undertakings inspected or their associations;

d) to carry out inspections in the offices and other premises and means of transport of the undertaking or association of undertakings;

e) to seal any professional premises, books or documents for the period of and to the extent necessary for the inspection;

f) to carry out inspections on premises, stadiums or means of transport other than those mentioned in subpar. d) of par. 1 of article 39, including the residencies of the businessmen, directors, chief executive officers and persons entrusted with the management or administration in general and of the staff of the undertaking or association of undertakings, where there is reasonable cause to suspect that they are

¹⁴⁰ As amended with the Article 41 L. 4886/2022, with effect from 24/1/2022 and specifically in par. 3 the following are replaced: the introductory subparagraph and the indent a) and the indent b) is amended with the addition of the employees of local or regional authorities.

keeping books or other documents pertaining to the undertaking and the purpose of the inspection may be important to establish an infringement;

g) to take, at their discretion, sworn or unsworn witness statements, without prejudice to the provisions of Article 212 of the Code of Criminal Procedure, and to ask any representative or member of staff of the undertaking or association of undertakings for explanations of facts or documents relating to the subject matter and purpose of the inspection and to record their respective answers.

The types of evidence deemed as acceptable before the Competition Commission include documents, oral statements, emails, regardless of whether any such messages appear to have been read or deleted, records and any other item containing information, regardless of form and the medium on which the information is stored.

The procedure for collecting, storing and processing electronic files and correspondence collected for the purpose of the present law shall be stipulated by decision of the Competition Commission.

The employees of the Directorate-General of Competition shall comply with the provisions of Article 9 of the Constitution on the asylum of residence during the exercise of their powers in accordance with subparagraph (g) above.

When there are reasonable suspicions of infringement of 1 & 2 and said data may be essential for the establishment of this infringement, the Competition Commission may, however, respecting the principle of proportionality, request the removal of confidentiality of communication under Articles 4 and 5 of Law 2225/1994 (A' 121).¹⁴¹

2. The order in question shall be issued in writing by the President of the Competition Commission or the Vice-President, Director-General or Director of the Directorate-General of Competition of the Competition Commission authorised for the purpose and shall state the purpose of the inspection and the consequences of obstructing or hampering it or refusing to produce the books, records and other documents requested or to provide copies or extracts of them.¹⁴²

3. The President of the Competition Commission or the Vice-President, Director-General or Director of the Directorate-General of Competition of the Competition Commission authorised by the President may request in writing, the assistance of public authorities or departments, or level-1 or level-2 local authorities and public-law legal entities, for the

¹⁴¹. As amended with Article 42 L. 4886/2022 with effect from 24/1/2022. Concretely, in par. 1 , is replaced the introductory part, at the end of subpar. a) a reference at the right of the authorized employees of the Competition Commission to access the information to which said company has access, is made, the subpar. b) is replaced, the subpar. c) is amended, in order a reference to the computing cloud to be added, the subpar. g), in order to specialize the requirements of control and investigations and subpar. f), in order the possibility of witness statements or clarifications by third person and the type of evidence accepted before the Commission, as well as the possibility of removing the confidentiality of communications, the reference at the subpar. "a) to f)" is replaced.

¹⁴² As amended with Article 42 L. 4886/2022 with effect from 24/1/2022 and in particular par. 2 is improved in terms of legislative drafting.

conduct of investigations referred to in paragraph 2(a) to (g). Such assistance may also be requested as a precautionary measure.¹⁴³

4. A report shall be drafted on every inspection and search carried out by the person who conducted it, a copy of which shall be sent to the undertaking or association of undertakings in question.

5. Without prejudice to criminal sanctions provided for in Article 44, the Competition Commission imposes, by decision, on undertakings, associations of undertakings or persons who obstruct or hamper, in any manner, investigations carried out under the provisions of paragraphs 1, 2 and 3, a fine per day of non-compliance. The fine, as far as the undertakings or associations of undertakings is concerned, is defined proportionally to the average total global turnover of the wayward undertaking or associations of undertakings at the previous issuance of the financial decision, capped at 3% of turnover and calculated from the date set by the relevant decision of the Competition Commission. Furthermore, the Competition Commission may impose on anyone else who demonstrates the above behavior, a financial penalty of at least fifteen thousand (15,000) to two million (2,000,000) euros and on the employees of the above undertakings or associations of undertakings that display the above behavior, a fine of at least five thousand (5,000) euros to two million (2,000,000) euros. If it is possible to calculate the amount of the financial benefit from the infringement, the amount of the fine imposed may not be less than that, even if it exceeds the maximum amount specified in the third part. In measuring the above, special consideration shall be given to the seriousness of the case under consideration, the invalidity of the acts and their impact on the outcome of the investigation.¹⁴⁴

6. If the authorized employees of the Directorate-General of Competition or the authorised officials of the European Commission are denied or somehow obstructed in the performance of their duties, they may request assistance from the prosecution authorities and any other competent authority. Such assistance may also be requested preventively.

Article 39A¹⁴⁵

Restrictions on rights and obligations in the processing of personal data - Empowering provision

1. The Competition Commission shall process personal data when the processing is necessary for the exercise of the powers conferred on it hereunder, in accordance with subpar. e) of par. 1 of Article 6 (1) of EU- Regulation 2016/679 of the European Parliament and of the Council, dated from 27 April 2016, for the protection of natural persons with regard to the processing of personal data and the free movement of such data and

¹⁴³ As amended with Article 42 L. 4886/2022 with effect from 24/1/2022 and in particular in par. 3 a second indent is added.

¹⁴⁴ As amended with Article 42 L. 4886/2022 with effect from 24/1/2022.

¹⁴⁵ As added with Article 43 L. 4886/2022 with effect from 24/1/2022.

repealing Directive 95/46/EC (General Data Protection Regulation) (L.119) and law 4624/2019 (A' 137).

2. The Competition Commission may restrict the rights and obligations provided for in Articles 12 to 15, 17, 18, 20 and 34, as well as in Article 5 of EU-Regulation 2016/679 in so far as they concern the personal data processed during the exercise of investigative powers, according to articles 38 and 39 of this law, as well as during the conduct of investigative and enforcement activities, fall within its competences.

3. The restrictions of paragraph 2 hereof shall apply when the exercise of rights and the fulfillment of these obligations jeopardizes, or complicates, the investigations or enforcement activities carried out by the Commission for the purpose of applying competition law, in particular through disclosure of research instruments, methods and evidence, or when the rights of other data subjects are adversely affected.

4. The subjects of the data that exercise any of the rights provided for in Articles 15, 17 and 18 of EU-Regulation 2016/679, shall be informed by the Competition Commission of the restrictions applied pursuant to par. 2 hereof, for the reasons justifying the imposition of such restrictions, unless such information may be detrimental to the purposes of the restriction, as well as their ability to lodge a complaint with the Hellenic Data Protection Authority.

5. When the substantive reasons for the restriction no longer exist, the Competition Commission shall lift the restriction, at the same time informing the data subject of the substantive reasons for which it was applied.

6. The Competition Commission shall apply the restrictions of par. 2 for as long as the reasons that justify them exist. During this period, the Competition Commission implements the appropriate technical and organizational measures to ensure the prevention of unauthorized access to personal data or the transmission of such data to persons who are not required to be aware of it.

7. The Data Protection Officer of the Competition Commission (DPO) shall be informed without delay whenever the rights of the data subjects are restricted in accordance with the decision of par. 8. Upon request, the Data Protection Officer shall be granted access to the registration file and any documents containing the basic factual and legal data. The DPO may request a review of the restriction and shall be informed of the outcome of the requested review.

8. By decision of the Competition Commission the terms, conditions, organizational measures and procedural guarantees for the application of the restrictions may be regulated, in compliance with the principles of proportionality and accountability.

Article 40

Investigations into sectors of the economy or types of agreements

1. Where prices or other circumstances give cause to suspect that competition is being restricted or distorted, the Competition Commission may investigate a particular sector of the economy or certain types of agreements or methods of shaping commercial behavior, including algorithmic methods, in various sectors, provided that they fall within its responsibility.¹⁴⁶
2. During the course of its investigation, the Competition Commission may ask undertakings or associations of undertakings for the information necessary for the application of Articles 1, 1A ¹⁴⁷ and 2 and may carry out any inspection needed for the purpose. The Competition Commission may, in particular, ask the above undertakings or associations of undertakings to advise it of any agreement, decision or concerted practice.
3. The Competition Commission may publish a report on the results of its investigation of particular sectors of the economy or certain types of agreements in various sectors and ask the interested parties for their comments.
4. For the purposes of the present article the Competition Commission shall rule in Plenary session. The provisions of articles 38, 39 and 41 shall apply for the purpose of collating the necessary information.

Article 41

Obligation of Confidentiality

1. The information collected pursuant to the provisions of the present law may only be used for the purpose of the request for information, the inspection or the hearing.
2. Without prejudice to the provisions of Article 38(2) of the Code of Criminal Procedure¹⁴⁸, employees of the Directorate-General of the Competition Commission and employees of the competent departments of the local authorities and services, level-1 and level-2 of local authorities and public-law entities instructed in accordance with Article 39(2) to (4) who, during the performance of their duties, obtain knowledge of confidential information on undertakings, associations of undertakings or other natural or legal persons which has no bearing on the application of the present law shall treat any such information in confidence.
3. Confidential information bearing on the application of the present law shall form part of the administrative file. The employees referred to in the paragraph 2 must keep confidentiality, without prejudice to the provision of par. 2 of Article 38 of the Code of Criminal Procedure, for the data referred to the previous subparagraph. The

¹⁴⁶ As amended with Article 44 L. 4886/2022 with effect from 24/1/2022, in order in par. 1 of Article 40 of L. 3959/2011 (A' 93) to be added the reference to methods of shaping commercial behavior, including algorithmic methods.

¹⁴⁷ As amended with Article 44 L. 4886/2022 with effect from 24/1/2022, in order to add in par. 2 the reference to Article 1A.

¹⁴⁸ As amended with Article 45 L. 4886/2022 with effect from 24/1/2022, in order to align par.2 with the renumbering of Article 37 of the Code of Criminal Procedure to Article 38 of the Code of Criminal Procedure.

preconditions to, the extent of, the exemptions from and the time and procedure for access to the administrative file by undertakings and associations of undertakings against which proceedings before the Competition Commission have been instituted and by the natural persons or legal entities who filed a complaint, the procedure for the Directorate-General of Competition to use and publish the aforementioned confidential data and any other necessary details shall be stipulated, in derogation from general provisions governing the right of access to documents, in the Competition Commission's Rules of Procedure and Management. The confidential information referred to in the present paragraph shall form part of the file submitted to the Athens Administrative Court of Appeal and the Council of State and shall remain confidential. The above information shall therefore be forwarded in a separate section of the administrative file marked 'confidential information'. The court registrar shall ensure that the parties cannot access the parts of the file that are confidential for them, unless access is deemed necessary in order to defend their overriding interest and the adjudicating court grants them respective permission, to the necessary extent, at their request.¹⁴⁹

4. Anyone who fails to fulfill their obligations in accordance with the above paragraphs shall:

a) be punished in accordance with Article 252 of the Penal Code and with a fine of between EUR one thousand (1,000) and ten thousand (10,000);

b) be subject to disciplinary proceedings for infringement of duty of confidentiality, which is a disciplinary offence.

5. If the President, Vice-President or members of the Competition Commission infringe their duties stipulated in the preceding paragraphs, they shall be punished in accordance with Article 252 of the Penal Code and with a fine of between EUR one thousand five hundred (1,500) and a maximum of EUR fifteen thousand (15,000) and shall be dismissed, in the same ruling, from the Competition Commission.

6. Persons instructed by the Competition Commission to draft a study on its behalf or involved in a working party set up by the Competition Commission, provided that their contract contains a confidentiality clause in accordance with paragraphs 2 and 3, as well as lawyers working in the Legal Office of the Competition Commission, paid lawyers employed by the Competition Commission and the specialized consultants-scientists of Article 21A, if they violate the obligations of par. 1 to 3, shall also be subject to the penalties described in paragraph 5. The previous sentence shall also apply to the employees of the person to whom the study has been assigned who have been notified of the confidentiality clause.¹⁵⁰

¹⁴⁹ As amended with Article 45 L. 4886/2022 with effect from 24/1/2022, in order to be harmonized the par. 2 with the renumbering of Article 37 of the Code of Criminal Procedure to Article 38 of the Code of Criminal Procedure and in par. 3 a new forth part is added with regard to the participation of third persons to the meetings of the Competition Commission.

¹⁵⁰ As amended with Article 45 L. 4886/2022 with effect from 24/1/2022, and in particular the first part of par. 6 is amended, in order to broaden its scope.

Article 41A¹⁵¹

Access to data and information for judicial protection purposes

- 1.** Access to applications submitted for inclusion in the Leniency Program, in accordance with the provisions of Article 29B or the procedure referred to in Article 29A, shall be granted only to the parties and only for the purposes of exercising their rights of defense.
- 2.** The information obtained from the above statements may be used by the party which provided access to the case file, where this is necessary for the exercise of its rights of defense in cases directly related to the case for which access has been granted, and concerning: (a) the apportionment of fines imposed on them jointly and severally by the Competition Commission between the parties of the collusion or (b) the review of the decision by which the Competition Commission found infringement of Article 101 or Article 102 of the Functioning of the European Union or of Articles 1, 1A and 2 hereof.
- 3.** The following categories of information received by a party during proceedings before the Competition Commission shall not be used by that Party in proceedings before the courts until the Competition Commission has completed its review of all the investigated parties by issuing decision or otherwise terminate the proceedings before it:
 - (a) information collected by other natural or legal persons about the proceedings before the Competition Commission;
 - (b) information collected by the Competition Commission and sent to the parties during the proceedings before it; and
 - (c) Settlement submissions that were withdrawn.

CHAPTER F'

LIMITATION PERIODS

Article 42

Limitation periods for the imposition of penalties

- 1.** The powers conferred on the Competition Commission for the imposition of penalties pursuant to the present law shall be subject to a five-year limitation period.¹⁵²
- 2.** The limitation period shall commence on the date on which the infringement was committed. However, in the case of continuing or repeated infringements, the limitation period shall commence on the date on which the infringement ceased.

¹⁵¹ As added with Article 46 L. 4886/2022 with effect from 24/1/2022.

¹⁵² As replaced with Article 47 L. 4886/2022 with effect from 24/1/2022.

3. The limitation period applicable to fines and periodic penalty payments shall be interrupted by any act by the Competition Commission, the European Commission or the competition authority of a Member State of the European Union carried out for the purpose of investigations or proceedings in connection with the specific infringement relating to the same agreement, association decision or concerted practice or other conduct prohibited by Articles 1, 1A and 2 hereof and 101 or 102 of the Treaty on the Functioning of the European Union. The limitation period shall be interrupted with effect from the date on which the action is notified to at least one undertaking or association of undertakings involved in the infringement. Actions which interrupt the running of the period of limitation shall include, in particular, the following:

a) written requests for information from the Competition Commission or some other aforementioned competition authority;

b) written orders to conduct an inspection addressed to its officials by the Competition Commission or any other of the above competition authorities;

ba) the written request of the Competition Commission or other competition authority of a Member State for summons to an unworn or sworn witness statement or to provide oral clarifications and explanations of a representative of an undertaking or association of undertakings for a specific case under investigation;

c) the initiation of proceedings by any other of the above competition authorities;

d) the assigning of the case, by lot, to a rapporteur, and

e) notification of a statement of objections or report by the Competition Commission or any other of the above competition authorities.¹⁵³

4. The limitation period shall end on the day on which the competition authority concludes the procedure by taking a decision referred to in Article 14 hereof or in accordance with Articles 7, 9 or 10 of Regulation (EC) No 1/2003, or concluded that there were no grounds for further action on its part. The interruption of the limitation period applies to all undertakings and associations of undertakings involved in the infringement.¹⁵⁴

5. The limitation period shall recommence following each interruption. However, the period of limitation shall finish on the date on which a time limit equal to twice the period of limitation expires, provided that the Competition Commission has not imposed a fine. This time limit shall be extended by a period of time equal to the suspension of the period of limitation in accordance with paragraph 6 of the present article.

¹⁵³ As amended with Article 47 L. 4886/2022 with effect from 24/1/2022 and in particular in par. 3, the first subparagraph is replaced and subpar. (ba). is added.

¹⁵⁴ As amended with Article 47 L. 4886/2022 with effect from 24/1/2022, and in particular a subparagraph is added in the beginning of par. 4.

6. The limitation period applicable to fines or periodic penalty payments shall be suspended for as long as the Competition Commission's act or decision on the case is the subject of proceedings pending before the courts.¹⁵⁵

7. The suspension referred to in paragraph 6 shall apply to all undertakings and associations of undertakings involved in the infringement and which filed an appeal against the relevant act or decision of the Competition Commission.¹⁵⁶

8. The Competition Commission may, if it has a relevant legitimate interest, establish that the infringement has been committed in the past and has been terminated, even though the power to impose a fine has become time-barred.¹⁵⁷

CHAPTER G'

CRIMINAL SANCTIONS

Article 43

Obligation to report infringements

When the Competition Commission finds that the provisions of Articles 1, 2 and 5 to 10 or obligations imposed on undertakings in accordance with Article 11 have been infringed, it shall report the infringement to the competent prosecution authority within no more than ten (10) days of issuing its decision.

Article 44¹⁵⁸

Criminal sanctions and other administrative consequences

1. Any person who executes an agreement, takes a decision or applies a concerted practice in breach of Article 1 or Article 101 of the Treaty on the Functioning of the European Union shall be punished by a fine between EUR fifteen thousand (15,000) and one hundred and fifty thousand (150,000). Any person who, in the capacity of Article 25B par. 5, acts in breach of Articles 5 to 10 or fails to apply decisions issued in accordance with Article 11(5) and (6) shall be subject to the same punishment. If the act referred to in the first sentence pertains to undertakings which are in actual or potential competition

¹⁵⁵ As amended with Article 47 L. 4886/2022 with effect from 24/1/2022, and in particular in par. 6 a reference to the periodic penalty payments is added.

¹⁵⁶ As amended with Article 47 L. 4886/2022 with effect from 24/1/2022. In particular, par. 7 is amended with regard to its scope.

¹⁵⁷ As added with Article 47 L. 4886/2022 with effect from 24/1/2022.

¹⁵⁸ As amended by par. 1 Article 235 CHAPTER HD Law 4635/2019. The title of article 44 was replaced as above with par. 1 of article 235 L.4635 / 2019 (Government Gazette A 167 / 30.10.2019).

with each other, a term of imprisonment of at least two (2) years and a fine of between EUR one hundred thousand (100,000) and one million (1,000,000) shall be paid.¹⁵⁹

2. Any person who abuses a dominant market position in breach of Article 2 of the present law or Article 102 of the Treaty on the Functioning of the European Union shall be punished by a fine of between EUR thirty thousand (30,000) and three hundred thousand (300,000).

3A. Where:

a) an application for leniency is approved, pursuant to article 29B providing for total immunity from fine or reduction of fine and full payment thereof¹⁶⁰, or

b) an application for settlement is approved, pursuant to article 29A providing for full payment of the fine, a waiver from any criminal liability for the former and current directors, executives and other staff members as well as any other responsible person of par. 5 of article 25B of the offense of the first and third sentence of paragraph 1,2 and the crimes that are ideologically linked to them, provided that the persons in question have actively cooperated with the Competition Commission and are actively cooperating with the public prosecutor, as well as that the application for entry in a leniency program or dispute settlement procedure was submitted before they were duly informed of the criminal prosecution against them, or the possibility of criminal prosecution. The provision of facilitatory partial payment of the fine facilitates criminal prosecution for as long as the arrangement is in force and the debtor is consistent with its terms. During the period of suspension, the limitation of the offenses shall be suspended without applying the time limitations referred to in Article 113(2) (a) of the Penal Code. Following the admission to the program of article 29(C), which gave effect to the imposition of a reduced fine, where the fine is not paid in full, it shall constitute a mitigating circumstance in itself for the offences of paragraphs 1 and 2 and a reduced sanction shall be imposed pursuant to article 83 of the Penal Code¹⁶¹.

3B. Where:

a) an application for leniency is approved, pursuant to article 29(B) providing for total immunity from fine or reduction of fine and full payment thereof¹⁶², or

b) an application for settlement is approved, pursuant to article 29A providing for full payment of the fine, the former and current directors, executives and other staff members, as well as any other responsible person of par. 5 of article 25B shall be relieved from any administrative penalty and fines imposed in non- criminal judicial proceedings, provided that said persons cooperated actively with the Competition Commission during

¹⁵⁹ As amended with Article 48 L. 4886/2022 with effect from 24/1/2022. In the second sentence of par. 1, references to the provisions referred to are updated.

¹⁶⁰ As amended with Article 48 L. 4886/2022 with effect from 24/1/2022. In the subparagraph a) of par. 3B references to the provisions referred to are updated.

¹⁶¹ As replaced with Article 48 L. 4886/2022 with effect from 24/1/2022.

¹⁶² As amended with Article 48 L. 4886/2022 with effect from 24/1/2022. In the subparagraph a) of par. 3B references to the provisions referred to are updated.

the investigation of the infringement and that the application for leniency program or for settlement procedure was submitted before they were duly informed of the criminal prosecution against them^{163, 164}.

3C. Where:

a) an application for leniency is approved, pursuant to article 29(B) providing for total immunity from fine or reduction of fine and full payment thereof, or

b) an application for settlement is approved, pursuant to article 29A providing for full payment of the fine, undertaking concerned shall be relieved from any administrative penalty, except those set out in article 25 and in par. 1, 2 and 5 of article 25B. In the above cases, the finding of the relevant infringement shall not establish grounds for exclusion of the undertaking from public procurement procedures or concessions, except the repetitive breach provided for in article 1 or article 101 TFEU. A repetitive breach shall mean the issuing of a relevant declaratory decision within six (6) years from the earlier issuing of another declaratory decision. The present provision shall apply to the event of facilitated partial fine payment and for as long the arrangement is in force and the debtor is consistent with its terms. The present provision shall also apply where there is a declaratory decision on the infringement of article 1 or article 101 TFEU and a three-year period from its issuing has not yet elapsed.¹⁶⁵

4. Without prejudice to par. 3A, persons who commit or are involved in an act in accordance with paragraphs 1 and 2 shall go unpunished if they report it of their own volition along with evidence, prior of being examined in connection with their act, to the Public Prosecutor, the Competition Commission or any other competent authority. In any event, the material contribution of the above persons to the discovery of involvement in such practices, by adducing evidence to the authorities, is deemed to be a mitigating circumstance in accordance with Article 84 of the Penal Code and a reduced fine is imposed in accordance with Article 83 of the Penal Code.¹⁶⁶

5. 5. If the act referred to in paragraphs 1 and 2 is being investigated in any manner by the Competition Commission or any other competent authority, the Public Prosecutor shall suspend any further action following the preliminary investigation, pending a decision by the Competition Commission, with the assent of the prosecutor to the Courts of Appeal, in which case the time limit in par. 2 of Article 113(3)(a) of the Penal Code shall not apply. The case is not brought before the court before the final decision on the appeal against the decision of the Competition Commission, which established the infringement for the performance of which the accused is involved, or the non-expiration of the relevant deadline for its exercise. The Competition Commission has the obligation to

¹⁶³ As amended with Article 48 L. 4886/2022 with effect from 24/1/2022.

¹⁶⁴ Par. 3 is replaced with par. 3A and 3B like par. 1 of Article 235 L. 4635/2019 (Government Gazette Issue No. A 167/30.10.2019).

¹⁶⁵ As added (namely par. 3C) with Article 48 L. 4886/2022 with effect from 24/1/2022.

¹⁶⁶ As amended with Article 48 N. 4886/2022 with effect from 24/1/2022. In the first sentence of par. 4 a reservation of par. 3A is added.

inform the public prosecutor, in accordance with the application of the definitions in Article 43.¹⁶⁷

6. Any person affected by infringements of paragraphs 1 and 2 may appear as civil plaintiff at trials of such acts.

7. A punishment of at least six (6)-month imprisonment is imposed on:

a) whoever obstructs or hampers, in any manner, investigations carried out under the provisions of the present Law by the competent bodies under Article 39, in particular by posing impediments or concealing evidence.

b) whoever refuses or prevents provision of information under Article 38.

c) anyone who knowingly provides with false information or conceals evidence, in breach of Articles 38 and 39.

d) whoever refuses, after having been duly summoned by an HCC's official designated under par. 1, 2 & 3 of Article 39, or other body competent for the investigation, to make a sworn or unsworn statement before it, according to the provisions of subparagraph (c) of par. 1 of Article 39, as well as anyone who, during his statement, knowingly provides false information or denies or conceals any facts.¹⁶⁸

7A. Any person who infringes the secrecy of the meetings of the Competition Commission shall be punished with a fine of between EUR ten thousand (10.000) and twenty thousand (20.000).¹⁶⁹

8. When the European Commission or the competition authority of Member State of the European Union has dealt with a case involving several jurisdictions, including the Greek authorities and courts, and has granted the favor of leniency to an undertaking, the Competition Commission shall, at its discretion, ensure the exchange of contacts and the exchange of information between the European Commission or the competition authority of a Member State of the European Union in charge of the case and itself, the Public Prosecutor and any other competent Greek authority, in order to apply par. 3A and 3B, provided that the required conditions are met. To this end, the Competition Commission may communicate to the Public Prosecutor or any other competent Greek authority the information, data and documents received from the European Commission or the Competition Authority of a Member State of the European Union in charge of the case, without prejudice to Article 12 of Regulation 1/2003.¹⁷⁰

¹⁶⁷ As amended with Article 48 L. 4886/2022 with effect from 24/1/2022. In par. 5, at the second sentence the reference to par. 3 of article 113 of the Penal Code is corrected in par. 2 of the same article and after the second sentence two new sentences are added.

¹⁶⁸ Par. 7 is added with par. 2 of article 233 L. 233 N.4072/2012 (Government Gazette Issue A 86/11.4.2012) and was amended with article 48 L. 4886/2022 with effect from 24/1/2022, and in particular in the subpar. d) of par. 7 is inserted a provision for the possibility that criminal sanctions may be imposed and in case of absence in the context of an oral hearing before the Competition Commission.

¹⁶⁹ As added with Article 48 L. 4886/2022 with effect from 24/1/2022.

¹⁷⁰ As added with Article 48 L. 4886/2022 with effect from 24/1/2022.

9. What is provided in par. 1 to 8, does not affect the right of victims who have suffered damage from infringement of competition law to claim full compensation for such damage, in accordance with provisions of L. 4529/2018 (A' 56).¹⁷¹

CHAPTER H'

FEES

Article 45

FEES

1. The notifications referred to in Article 6 and the requests referred to in Article 9(3) must be accompanied, under penalty of inadmissibility, by a fiscal stamp. Fees are hereby set at the sum of EUR one thousand one hundred (1,100) for the notification referred to in Article 6 and the requests referred to in Article 8(9) and 9(3). The above amount of fee, in the case of par. 4 of article 8, shall be EUR three thousand (3.000). Pending the payment of this amount, the concentration cannot take place. Said fee, in its entirety, is collected and constitutes revenue of the Competition Commission in accordance with Article 17.¹⁷²

2. Appeals, applications for annulment, motions for continuance, applications for retrial and third party interventions exercised before the administrative courts in accordance with the provisions of the present law and applications for review before the Competition Commission must be accompanied, under penalty of inadmissibility, by a fiscal stamp of EUR seven hundred and fifty (750). With regard to the payment of the fees, the provisions of Article 277(9), (10) and (11) of the Code of Administrative Procedure and Article 36(4) of Presidential Decree 18/1989, are applied. The State shall be exempt from this obligation.¹⁷³

3. Stamp duties payable to the State on documents of the case filed and documents adduced and fees payable to the Lawyers' Pension Fund, the Court Buildings Fund and the Athens Lawyers' Provident Fund for registration on the docket, appearance by counsel, submission of case documents or pleadings and the hearing of cases in general shall be the same for proceedings before the Competition Commission as for proceedings before the Administrative Court of First Instance.¹⁷⁴

4. The General Commissioner of the State before the ordinary administrative courts shall be exempt from stamp duty, as if he were the State, for each legal remedy exercised by him in accordance with the present law and the subsequent proceedings in general.

¹⁷¹ As added with Article 48 L. 4886/2022 with effect from 24/1/2022.

¹⁷² As amended with Article 49 L. 4886/2022 with effect from 24/1/2022. In the end of par. 1 of article 45 L. 3959/2011 (A' 93) three new sentences are added.

¹⁷³ As amended with Article 49 L. 4886/2022 with effect from 24/1/2022.

¹⁷⁴ As amended with Article 49 L. 4886/2022 with effect from 24/1/2022.

5. Details pertaining to the application of the provisions of the present article shall be regulated by presidential decree issued at the proposal of the Ministers of Finance and the Ministers of Development and Investment.¹⁷⁵

CHAPTER I'

FINAL PROVISIONS

Article 46

Scope of the Law

The present law shall apply to all restrictions of competition which affect or might affect Greece, even if these are due to agreements between undertakings, decisions by associations of undertakings, concerted practices between undertakings or associations of undertakings or concentrations of undertakings implemented or taken outside Greece or to undertakings or associations of undertakings which have no establishment in Greece. The same shall apply with regard to abuse of a dominant position manifesting in Greece.

Article 47

Publication of decisions

Joint decisions by the competent ministers, regulatory decisions by the Minister of Economy, Competitiveness and Shipping and decisions and expert opinions by the Competition Commission provided for under the present law shall be published in the Government Gazette and posted on the Internet according to L. 3861/2010 (A' 112).

Article 48

Application of provisions governing summons and service

1. Without prejudice to paragraphs 2 and 3, the provisions governing service in Articles 47 to 57 of the Code of Administrative Procedure shall apply to all summons before the Competition Commission provided for under the present law and to the service of all decisions and recommendations.
2. If a hearing is adjourned or continued to another day and time, notification to litigants who fail to appear on the date of the adjourned or continued hearing may be made by any appropriate means.

¹⁷⁵ As amended with Article 49 L. 4886/2022 with effect from 24/1/2022, and in particular the reference to the “Minister of Economy, Competitiveness and Shipping” is replaced by “Minister of Development and Investments”.

3. Other documents, including letters requesting information in accordance with Article 38, may be served by registered post or through email accompanied by certificate of delivery.¹⁷⁶

Article 49

Recovery of fines

The fines provided for under the present law shall be assessed as public revenue by the Competition Commission and collected in accordance with the Public Revenue Collection Code (new provision 356/1974, A' 90), by the competent Public Finance Office, which must advise the Competition Commission without delay as to whether or not each fine has been paid.¹⁷⁷

CHAPTER J'

TRANSITIONAL, ABOLISHED AND OTHER PROVISIONS

Article 50

Transitional Provisions

1. The Commission shall list cases pending before it within nine (9) months of the date on which the points-based system provided for in Article 14(2)(o) enters into force.
2. The Commission shall wind up cases pending before it which come under the procedure described in Article 37(1) and (2) within twelve (12) months of the date on which the present law enters into force.
3. The members of the HCC Board employed on a full-time and exclusive basis remain in their position until the end of their mandate. The rest of the members remain in their position until appointment of Vice-President and new members according to the provisions of the present law, where their mandate is automatically terminated. The above members may be re-appointed, without their current mandate being taken into account for the application of the third subparagraph of article 12(3). The Commission, retaining its composition, continues to carry out its duties until the appointment of the Vice-President and the new members according to the provisions of the present law, while the Rapporteurs retain their voting right.
4. By decision of the Ministers of Finance and of Development, Competitiveness and Shipping, to be issued not later than July 1st, 2012, a percentage capped at 80% of the

¹⁷⁶ As amended with Article 50 L. 4886/2022 with effect from. In par. 3 of article 48 L. 3959/2011 (A' 93) after the word "letter" are added the words "or through email accompanied by certificate of delivery".

¹⁷⁷ As amended with Article 51 L. 4886/2022 with effect from 24/1/2022, as regards the competent bodies of certification and recovery.

accrued surplus of the Competition Commission, calculated on a cash flow basis as of 31st December 2011, shall be made available as State budget revenue. In calculating the above surplus, the amount intended to cover expenditure on the purchase of new premises for the competition authority, as appearing in HCC's general budget, shall not be taken into account.¹⁷⁸

5. Upon entry of the present law into force:

a) the pending cases before the Competition Commission are introduced for discussion without the redaction of a new Report being necessary, provided that the trial date has been set and the Report has been notified to the parties.

b) the procedural deadlines provided for in article 8 of the present law do not apply to projected concentrations already notified to the Competition Commission.

6. The limitation provided for in article 42 applies also to infringements committed prior to the day on which the present law enters into force and are not the subject of any complaint or ex-officio investigation or request for investigation by the Minister of Economy, Competitiveness and Shipping.

7. Officials seconded to the Directorate-General of Competition when the present law enters into force shall remain in their positions until the end of their secondment, unless the persons satisfy, according to the judgment of the Plenary, the grounds for reversal of the secondment. The concerned officials, following their relevant request and the opinion of the Service Council, may be transferred, by joint decision of the Minister of Economy, Competitiveness and Shipping and of any other competent Minister, as appropriate, to vacant regular posts of the Competition Commission.

The above provision has no effect on the outcome of any pending proceedings pertaining to requests for transfer submitted under Article 38(5) of L. 3784/2009, which have not been concluded until the entry of the present law into force.

8. Until appointment of the Head of the Legal Support Office in accordance with the provisions of Article 20 of the present law, the Assistant Legal Adviser of the State Legal Council continues to serve as head of this Office.¹⁷⁹

9. The maximum annual payment of EUR twenty thousand (20.000) referred to in par. 6 of article 20, is valid after the staffing of the Legal Support Office.¹⁸⁰

Article 51

Abolished provisions

Law 703/1977 and any other contrary legal provision shall be repealed upon entry of the present law into force.

¹⁷⁸ As amended with par. 3 Article 233 L. 4072/2012 with effect from 11/4/2012.

¹⁷⁹ As abolished with par.4 of Article 67 L. 4714/2020 with effect from 31/7/2020.

¹⁸⁰ As added with par. 2 of Article 104 L. 4389/2016 with effect from 27/5/2016.

[...]

Article 55

Entry into force

The provisions of this law shall enter into force upon publication thereof in the Government Gazette.

The publication of this law in the Government Gazette and its implementation as a law of the State is hereby requested.