



LAW OF UKRAINE

On the Protection of Economic Competition

(The Official Bulletin of the Verkhovna Rada (BVR), 2001, No. 12, Article 64)

{As amended by Laws

No. 380-IV as of 26 December 2002, *BVR, 2003, No. 10-11, Article 86*
No. 762-IV as of 15 May 2003, *BVR, 2003, No. 30, Article 247*
No. 1344-IV as of 27 November 2003, *BVR, 2004, No. 17-18, Article 250*
No. 2285-IV as of 23 December 2004, *BVR, 2005, No. 7-8, Article 162*
No. 2505-IV as of 25 March 2005, *BVR, 2005, No. 17, No. 18-19, Article 267*
No. 2596-IV as of 31 May 2005, *BVR, 2005, No. 26, Article 348*
No. 3486-IV as of 23 February 2006, *BVR, 2006, No. 31, Article 269*
No. 1276-VI as of 16 April 2009, *BVR, 2009, No. 38, Article 535*
No. 2850-VI as of 22 December 2010, *BVR, 2011, No. 28, Article 252*
No. 2856-VI as of 23 December 2010, *BVR, 2011, No. 29, Article 272*
No. 3567-VI as of 05 July 2011, *BVR, 2012, No. 5, Article 36*
No. 406-VII as of 04 July 2013, *BVR, 2014, No. 20-21, Article 712*
No. 782-VIII as of 12 November 2015, *BVR, 2015, No. 51, Article 473*
No. 901-VIII as of 23 December 2015, *BVR, 2016, No. 4, Article 44*
No. 935-VIII as of 26 January 2016, *BVR, 2016, No. 13, Article 143*
No. 2195-VIII as of 09 November 2017, *BVR, 2018, No. 1, Article 2*
No. 2269-VIII as of 18 January 2018, *BVR, 2018, No. 12, Article 68*
No. 112-IX as of 19 September 2019, *BVR, 2019, No. 42, Article 237*
No. 440-IX as of 14 January 2020, *BVR, 2020, No. 28, Article 188*
No. 738-IX as of 19 June 2020
No. 1539-IX as of 15 June 2021, *BVR, 2021, No. 34, Article 274*
No. 1630-IX as of 13 July 2021, *BVR, 2021, No. 46, Article 378*
No. 1780-IX as of 23 September 2021, *BVR, 2021, No. 51, Article 421*
No. 2849-IX as of 13 December 2022
No. 3137-IX as of 30 May 2023
No. 3295-IX as of 09 August 2023 }

{In the text of the Law, the words "arbitration court" in all cases are deleted on the basis of Law No. 762-IV as of 15 May 2003 }

{In the text of the Law, the word "court" in all cases is replaced with the words "commercial court" in the appropriate case according to Law No. 2596-IV as of 31 May 2005 }

This Law defines the legal framework for supporting and protecting economic competition, restricting monopoly in economic activity and is aimed at ensuring the effective functioning of the Ukrainian economy through the development of competitive relations.

Section I GENERAL PROVISIONS

Article 1. Definitions

The terms used in this Law shall have the following meanings:

The state register of undertakings brought to justice for the violation provided for in clause 4 of the second part of Article 6, clause 1 of Article 50 of this Law, in the form of anti-competitive concerted actions related to the distortion of the results of trades, auctions, contests, tenders (hereinafter - the State Register), is a single open automated system of accumulation, processing, accounting and provision of information about undertakings, which during the last three years were prosecuted for the violation provided for in clause 4 of the second part of Article 6, clause 1 of Article 50 of this of the Law, in the form of anti-competitive concerted actions related to the distortion of the results of trades, auctions, contests, tenders, for the purposes of the Law of Ukraine "On Public Procurement";

{Article 1 is supplemented with a term according to Law No. 3295-IX as of 09 August 2023}

economic competition (competition) shall mean such a contest among undertakings with a view to gaining advantages over other undertakings thanks to their own achievements that results in the situation where consumers and undertakings have an opportunity to choose from among several sellers, buyers, whereas an individual undertaking is not able to set conditions for the turnover of products on the market;

a single property complex - assets that collectively ensure the ability of undertaking to carry out economic activities or to increase its presence on the market in economically reasonable terms, in particular movable property (equipment, inventory, raw materials, products, etc.), immovable property (buildings, structures, land plots etc.), claims, debts, as well as the right to a trademark or other designation and other rights;

{Article 1 is supplemented with a term according to Law No. 112-IX as of 19 September 2019; as revised under Law No. 3295-IX as of 09 August 2023}

information shall mean data in any form, of any type, fixed in any media (including correspondence, books, notes, illustrations (maps, diagrams, organigrams, pictures, schemes, etc.), photographs, holographs, cine-films, videofilms, microfilms, sound records, computer system databases or the complete or partial reproduction of their elements), explanations given by persons, and any knowledge that is publicly announced or documented;

control shall mean the possibility of one or more legal entities and/or individuals to exercise decisive influence on economic activity of an undertaking or its part that is exerted directly or through other persons, in particular by: the right to own or use all the assets or their considerable part; the right ensuring a decisive impact on the formation, voting results, and decisions of managing bodies of the undertaking; the conclusion of such agreements and contracts that make it possible to set conditions for economic activities, to give binding instructions or to perform functions of the managing body of the undertaking; the occupation of the position of the head, a deputy head of the supervisory board, the board of directors or of other supervisory or executive board of the undertaking by such a person that occupies one or several of the mentioned positions at other undertakings; the occupation of more

than half of the positions of members of the supervisory board, the board of directors, other supervisory or executive boards of the undertaking by such persons that occupy one or several of the mentioned positions at another undertaking. Legal entities and (or) individuals who jointly or concertedly perform economic activities, including those which jointly or concertedly impact on economic activities of the undertaking, shall be considered as related. In particular, spouses, parents and children, siblings are considered to be related individuals. The possibility of one or more (several) related legal and/or physical persons to exercise decisive influence - a method of relations between undertakings, characterized by the absence of the person, in relation to whom the influence is exercised, the ability to always independently determine their economic behavior on the market;

{Paragraph of Article 1 as amended by Laws No. 2596-IV as of 31 May 2005, No. 3295-IX as of 09 August 2023}

small and medium-sized entrepreneur shall mean an undertaking whose total income (proceeds) from the sale of products (goods, work, services) in the last financial year or whose total assets do not exceed such a sum equivalent to 500,000 euros that is defined in accordance with an exchange rate to be set by the National Bank of Ukraine and to be effective on the last day of the financial year if there are competitors having significantly larger shares in the given market;

monopolization shall mean the acquisition of a monopoly (dominant) position on the commodity market, the maintenance or strengthening of that sort of position;

object of inspection – an undertaking, association, authority, local self-government body, administrative-economic management and control body, regarding the inspection of which an order has been adopted;

{Article 1 is supplemented with a term according to Law No. 3295-IX as of 09 August 2023}

authorities shall mean ministries and other central executive authorities; the Verkhovna Rada of the Autonomous Republic of the Crimea and executive authorities of the Autonomous Republic of the Crimea; state authorities regulating activities of both undertakings being subjects of natural monopolies, securities markets and organized commodity markets, state bodies of privatization; the National Council on Television and Radio Broadcasting of Ukraine; local executive authorities;

{Paragraph of Article 1 as amended by Law No. 738-IX as of 19 June 2020}

associations/groups shall mean groups of legal entities and (or) individuals, including associations of enterprises and non-governmental organizations;

administrative and economic management and control bodies shall mean undertakings, associations/groups, other persons in terms of their performing functions of management or control within such authorities of state authorities or local self-government bodies that are delegated to them;

bodies of the Antimonopoly Committee of Ukraine shall mean the Antimonopoly Committee of Ukraine, standing and temporary administrative boards of the Antimonopoly Committee of Ukraine, a State Commissioner of the Antimonopoly Committee of Ukraine, administrative boards of territorial branches of the Antimonopoly Committee of Ukraine;

fully functional economic activity - the ability of an undertaking to carry out economic activities and/or increase its presence on the market independently and of other undertakings connected with this undertaking by relations of control, including due to the availability of sufficient resources for independent the implementation of economic activity and the absence of the need for economic ties with the activities of undertakings that are connected with this undertaking by relations of control

(including the sale of products produced by them, the purchase of raw materials for the production of products, the implementation of any economic activity without entering the market);

{Article 1 is supplemented with a term according to Law No. 3295-IX as of 09 August 2023}

commodity market shall mean the sphere of turnover of a product (fungible products) for which there is demand and supply for a certain time and within a certain territory;

an undertaking shall mean such a legal person irrespective of its organization and legal form, its form of ownership or such an individual that is engaged in the production, sale, or purchase of products and in other economic activities, including a person who exercises control over another legal entity or individual; a group of undertakings connected by relations of control. State authorities, local self-government bodies, administrative and economic management and control bodies shall also be considered as undertakings in terms of their activities in the production, sale, and purchase of products or in terms of their other economic activities. Activities of an individual in the purchase of consumer goods for their final consumption shall not be considered as economic activities;

{Paragraph of Article 1 as amended by Law No. 3295-IX as of 09 August 2023}

product shall mean any article of economic turnover, including goods, work, services, documents confirming obligations and rights (in particular securities).

The term "object of privatization" is used in this Law in the sense given in the Law of Ukraine "On Privatization of State and Communal Property";

{Article 1 is supplemented with part two according to Law No. 3295-IX as of 09 August 2023}

Article 2. Scope of application of the Law

1. This Law regulates relations of state authorities, local self-government bodies, administrative and economic management and control bodies with undertakings; relations of undertakings with other undertakings, consumers, other legal entities and individuals in connection with economic competition.

2. This Law shall apply to relations that affect or may affect economic competition in the territory of Ukraine.

Article 3. Legislation on the protection of economic competition

1. Legislation on the protection of economic competition shall be based on the norms established by the Constitution of Ukraine and shall consist of this Law, Laws of Ukraine "On Antimonopoly Committee of Ukraine", "On Protection Against Unfair Competition", other regulatory acts of Ukraine adopted in accordance with these Laws.

2. If an international treaty ratified by the Verkhovna Rada of Ukraine establishes rules different from the rules contained by this Law, the rules of the international treaty shall apply.

3. Peculiarities of the application of the legislation on the protection of economic competition, in particular peculiarities of their application to certain branches of industry, may be established exclusively by amending this Law.

Article 4. State Policy in the Sphere of Development of Economic Competition and Limitation of Monopolism

1. State policy in the sphere of development of economic competition and limitation of monopolism in economic activities, such measures relating to the demonopolization of the economy,

financial, material, technical, information, consultative support and other types of support rendered to undertakings that facilitate the development of competition shall be performed by state authorities, local self-government bodies, and administrative and economic management and control bodies.

2. Undertakings, authorities, local self-government bodies, and administrative and economic management and control bodies shall facilitate the development of economic competition and shall not commit such unlawful actions that can have a negative impact on competition.

3. State authorities, whose competence includes ensuring state regulation and management in the relevant sectors of the economy, monitor the markets of these sectors in order to analyze and forecast their development.

{Article 4 is supplemented with part according to Law No. 2596-IV as of 31 May 2005}

4. State control over the observance of the legislation on the protection of economic competition, protection of the interests of undertakings and consumers against violations of the laws shall be exercised by bodies of the Antimonopoly Committee of Ukraine.

State control over the observance of the legislation on the protection of economic competition, protection of the interests of undertakings and users against violations of the laws in the sphere of media shall be exercised by bodies of the Antimonopoly Committee of Ukraine as per procedure provided for by Law of Ukraine "On Media".

{part four of Article 4 is supplemented with paragraph two in accordance with Law No. 2849-IX as of 13 December 2022}

5. State authorities, local self-government bodies, administrative and economic management and control bodies are obliged to assist the Antimonopoly Committee of Ukraine in exercising its powers in the field of support and protection of economic competition, limitation of monopolism and control over compliance with the legislation on the protection of economic competition.

6. In order to apply norms of the legislation on the protection of economic competition uniformly, including laws on the protection against unfair competition, the Antimonopoly Committee of Ukraine shall give the recommended interpretations with respect to the application of the laws.

Section II

ANTICOMPETITIVE CONCERTED ACTIONS OF UNDERTAKINGS, ABUSES OF A MONOPOLY (DOMINANT) POSITION ON THE MARKET

Article 5. Concerted Actions

1. Concerted actions include conclusion of agreements by undertakings in any form, adoption of decisions by associations/groups in any form, as well as any other concerted competitive behavior (activity, inaction) of undertakings.

Concerted actions also include the establishment of an undertaking, association/group, the purpose or effect of which is to coordinate competitive behavior between the undertakings that established the said undertaking, association/group, or between them and the newly established undertaking, or joining such an association/group, except as provided by the Law of Ukraine "On Media".

{Paragraph two of part one of Article 5 as revised under Laws No. 2596-IV as of 31 May 2005, No. 2849-IX as of 13 December 2022}

2. Persons who perform or intend to perform concerted actions are participants in concerted actions.

Article 6. Anti-competitive concerted actions of undertakings

1. Anti-competitive concerted practices are concerted practices that have led or may lead to the prevention, elimination, or restriction of competition.

2. Anti-competitive concerted actions, in particular, are recognized as concerted actions related to:

1) setting prices or other conditions for the purchase or sale of goods;

2) limiting production, markets, technical and technological development, investments or establishing control over them;

3) distribution of markets or sources of supply on a territorial basis, by the range of goods, the volume of their sale or purchase, by the circle of sellers, buyers or consumers, or on other grounds;

4) distortion of the results of auctions, contests and tenders;

5) removal from the market or restriction of access to the market (exit from the market) of other undertakings, buyers, sellers;

6) application of different conditions to equivalent agreements with other undertakings, which puts the latter at a competitive disadvantage;

7) entering into agreements subject to the acceptance by other undertakings of additional obligations that, by their nature or in accordance with trade and other fair business practices, do not relate to the subject matter of these agreements;

8) significant restriction of competitiveness of other undertakings in the market without objectively justified reasons.

3. Anticompetitive concerted actions are also considered to be similar actions (inaction) by undertakings in the commodity market that have led or may lead to the prevention, elimination, or restriction of competition if the analysis of the situation in the commodity market refutes the existence of objective reasons for such actions (inaction).

{Article 6 is supplemented with part according to Law No. 2596-IV as of 31 May 2005}

4. Any anticompetitive concerted actions shall be prohibited and shall be punishable by law.

{Part five of Article 6 is excluded on the basis of Law No. 3295-IX as of 09 August 2023}

Article 7. Concerted actions of small or medium-sized entrepreneurs

The provisions of Article 6 of this Law shall not apply to any voluntary concerted actions of small or medium-sized entrepreneurs regarding the joint purchase of goods that do not lead to a significant restriction of competition and contribute to the competitiveness of small or medium-sized entrepreneurs.

Article 8. Concerted actions on the supply and use of goods

1. Provisions of Article 6 of this Law shall not apply to concerted actions on supply or use of goods if a participant of concerted actions sets restrictions on the use of goods in relation to another participant in concerted actions:

use of goods supplied by him or goods of other suppliers;
purchase from other undertakings or sale to other undertakings or consumers of other goods;
purchase of goods that by their nature or in accordance with trade and other fair business practices are not the subject of the transaction;
setting prices or other terms of the agreement for the sale of the delivered goods to other undertakings or consumers.

2. The provisions of Article 6 of this Law shall apply to concerted actions provided for in part one of this Article, if such concerted actions:

result in a significant restriction of competition in the entire market or in a significant part of it, including monopolization of the relevant markets;

restrict access to the market for other undertakings;

result in economically unjustified price increases or shortages of goods.

Article 9. Concerted actions on intellectual property rights

1. The provisions of Article 6 of this Law shall not apply to agreements on the transfer of intellectual property rights or on the use of intellectual property rights to the extent that they restrict the economic activity of the party to the agreement to which the right is transferred, if such restrictions do not go beyond the legal rights of the intellectual property rights holder.

2. The restrictions on the scope of rights to be transferred, the term and territory of the permit for the use of an intellectual property object, as well as the type of activity, the scope of use, and the minimum production volume shall be deemed to be within the scope of the rights specified in part one of this Article.

Article 10. Concerted actions that may be permitted

1. The concerted actions provided for in Article 6 of this Law may be permitted by the relevant bodies of the Antimonopoly Committee of Ukraine if the participants prove that these actions are promoting:

improvement of production, purchase, or sale of goods;

technical, technological, and economic development;

development of small or medium-sized entrepreneurs;

optimization of the export or import of goods;

development and application of unified technical specifications or standards for goods;

production rationalization.

2. The concerted actions provided for in part one of this Article may not be permitted by the bodies of the Antimonopoly Committee of Ukraine if competition is significantly restricted in the entire market or in a significant part thereof.

3. The Cabinet of Ministers of Ukraine may permit concerted actions for which the Antimonopoly Committee of Ukraine has not granted clearance in accordance with part two of this Article, if the participants of concerted actions prove that the positive effect for the public interest outweighs the negative consequences of competition restriction.

4. The clearance under part three of this Article may not be granted if:

participants in concerted actions apply restrictions that are not necessary for the implementation of concerted actions;

restriction of competition is a threat to the market economic system.

5. The concerted actions provided for in this Article shall be prohibited until the clearance of the Antimonopoly Committee of Ukraine or the Cabinet of Ministers of Ukraine is obtained.

{Part five of Article 10 as revised under Law No. 2596-IV as of 31 May 2005}

Article 11. Typical requirements for concerted actions

1. The Antimonopoly Committee of Ukraine may define typical requirements for concerted actions provided for in Articles 7, 8, 9 and 10 of this Law.

2. The concerted actions that comply with the typical requirements for certain types of concerted actions established by the Antimonopoly Committee of Ukraine shall be permitted and shall not require the clearance of the bodies of the Antimonopoly Committee of Ukraine in accordance with part one of Article 10 of this Law, if this is expressly stated in the decision of the Antimonopoly Committee of Ukraine on establishing the typical requirements.

{Part two of Article 11 as amended by Law No. 2596-IV as of 31 May 2005}

Article 12. Monopoly (dominant) position of an undertaking

1. An undertaking holds a monopoly (dominant) position in the market for a good if:

it has no competitors in this market;

it is not subject to significant competition due to limited access by other undertakings to the purchase of raw materials and supplies and the sale of goods, barriers to market access for other undertakings, the availability of privileges or other circumstances.

2. An undertaking with a market share of more than 35 percent shall be deemed to have a monopoly (dominant) position unless it proves that it is subject to significant competition.

3. An undertaking may also be recognized as monopoly (dominant) if its market share is 35 percent or less, but it is not subject to significant competition, in particular due to the relatively small size of market shares held by competitors.

4. Each of two or more undertakings shall be deemed to hold a monopoly (dominant) position in the market of goods if there is no or little competition between them with respect to a certain type of goods and one of the conditions provided for in part one of this Article is met.

5. The position of each of several undertakings shall also be considered monopoly (dominant) if the following conditions are met:

the aggregate share of no more than three undertakings holding the largest market shares in the same market exceeds 50 percent;

the aggregate share of no more than five undertakings holding the largest market shares in the same market exceeds 70 percent —

and they do not prove that the conditions of part four of this Article are not met in relation to them.

Article 13. Abuse of monopoly (dominant) position in the market

1. Abuse of a monopoly (dominant) position in the market is the actions or inaction of an undertaking that holds a monopoly (dominant) position in the market that have led or may lead to the prevention, elimination or restriction of competition, or infringement of the interests of other undertakings or consumers, which would be impossible in the conditions of significant competition in the market.

{Part one of Article 13 as amended by Law No. 2596-IV as of 31 May 2005}

2. The following is recognized an abuse of a monopoly (dominant) position in the market, namely:

1) setting prices or other conditions for the purchase or sale of goods that would not have been possible to set in the presence of significant competition in the market;

2) applying different prices or different other conditions to equivalent transactions with undertakings, sellers, or buyers without objectively justified reasons;

3) making agreements conditional on the undertaking's assumption of additional obligations that are not related to the subject matter of the agreement by their nature or in accordance with trade and other fair business practices;

4) restrictions on production, markets or technical development that have caused or may cause damage to other undertakings, buyers, sellers;

5) partial or complete refusal to purchase or sell goods in the absence of alternative sources of sale or purchase;

6) significant restriction of competitiveness of other undertakings in the market without objectively justified reasons;

7) creation of obstacles to market access (exit from the market) or elimination of sellers, buyers, and other undertakings from the market.

3. Abuse of a monopoly (dominant) position in the market shall be prohibited and shall be punishable by law.

Article 14. Conclusions on the qualification of actions

In order to prevent violations of the legislation on the protection of economic competition, to increase the predictability of its application, the Antimonopoly Committee of Ukraine or the administrative board of the Antimonopoly Committee of Ukraine may provide undertakings with conclusions in the form of advisory explanations on the basis of the information provided by them in the form of recommendations regarding the compliance of the actions of these undertakings with the provisions Articles 6, 10, 13 of this Law and Article 15¹ of the Law of Ukraine "On Protection from Unfair Competition".

{Article 14 as amended by Law No. 3567-VI as of 05 July 2011; the text of Article 14 as amended by Law No. 3295-IX as of 09 August 2023}

Section III

**ANTI-COMPETITIVE ACTIONS OF AUTHORITIES, LOCAL SELF-
GOVERNMENT BODIES, ADMINISTRATIVE AND ECONOMIC
MANAGEMENT AND CONTROL BODIES**

Article 15. Anti-competitive actions of authorities, local self-government bodies, administrative and economic management and control bodies

1. Anti-competitive actions of authorities, local self-government bodies, administrative and economic management and control bodies shall be the adoption of any acts (decisions, orders, instructions, resolutions, etc.), provision of written or oral instructions, conclusion of agreements or any other actions or inaction of authorities, local self-government bodies, administrative and economic management and control bodies (a joint body or an official) that have led or may lead to the prevention, elimination, restriction, or distortion of competition

2. Anti-competitive actions of authorities, local self-government bodies, administrative and economic management and control bodies, namely, are:

prohibiting or impeding the establishment of new enterprises or business in other organizational forms in any field of activity, as well as imposing restrictions on certain types of activities, production, purchase, or sale of certain types of goods;

direct or indirect coercion of undertakings to join associations/groups, concerns, intersectoral, regional, or other forms of associations/groups or to carry out concerted actions of undertakings concentration in other forms;

{Paragraph three of part two of Article 15 as amended by Law No. 2596-IV as of 31 May 2005}

direct or indirect coercion of undertakings to conclude agreements, to deliver goods to a certain circle of consumers or to purchase them from certain sellers on a priority basis;

any action aimed at centralized distribution of goods, as well as distribution of markets between undertakings on a territorial basis, range of goods, volume of their sales or purchases, or by the circle of consumers or sellers;

prohibiting the sale of certain goods from one region of the country to another or allowing the sale of goods from one region to another in a certain amount or under certain conditions;

providing certain undertakings or groups of undertakings with privileges or other advantages that put them in a privileged position in relation to competitors, which leads or may lead to the prevention, elimination, restriction, or distortion of competition;

an action that results in unfavorable or discriminatory conditions for certain undertakings or groups of undertakings compared to competitors;

an act that establishes prohibitions and restrictions on the independence of enterprises not provided for by the laws of Ukraine, including those related to the purchase or sale of goods, pricing, formation of business and development programs, and disposal of profits.

3. Anti-competitive actions of authorities, local self-government bodies, administrative and economic management and control bodies are prohibited and shall be punishable by law.

Article 16. Prohibition of delegation of powers of authorities and local self-government bodies

Authorities and local self-government bodies shall be prohibited from delegating certain powers to associations/groups, enterprises, and other undertakings if this leads or may lead to the prevention, elimination, restriction or distortion of competition.

Article 17. Prohibition of inducement to violations of legislation on the protection of economic competition and their legitimization

Actions or inaction of authorities, local self-government bodies, administrative and economic management and control bodies (a joint body or an official) that involve inducing undertakings, authorities, local self-government bodies, administrative and economic management and control bodies to violate the legislation on the protection of economic competition, creating conditions for committing such violations or legitimizing them shall be prohibited.

Section IV

RESTRICTIVE AND DISCRIMINATIVE ACTIVITIES OF UNDERTAKINGS AND ASSOCIATIONS/GROUPS

Article 18. Restrictive activities of undertakings and associations/groups

1. Undertakings and associations/groups shall be prohibited from inducing other undertakings to commit violations of the legislation on the protection of economic competition or facilitate the commission of such violations.

2. Undertakings and associations/groups shall be prohibited from coercing other undertakings:
to anticompetitive concerted actions as defined in Article 6 of this Law;
to concerted actions specified in Articles 7, 8, 9 and 10 of this Law;
to participate in the concentration of undertakings as defined in Article 22 of this Law.

Article 19. Unlawful use of market power by an undertaking

1. Undertakings that have received clearance from the relevant bodies of the Antimonopoly Committee of Ukraine for concerted actions in accordance with part one of Article 10 of this Law, undertakings whose concerted actions are permitted in accordance with Articles 7, 8 and 9 of this Law, are prohibited from imposing restrictions on business activities of undertakings that are not generally applicable to other undertakings, or applying different approaches to different undertakings without objectively justified reasons.

2. Undertakings that, in accordance with part three of Article 10 of this Law, have received a clearance from the Cabinet of Ministers of Ukraine for concerted actions regardless of their monopolistic position, shall be prohibited from taking actions considered to be abuse of monopoly (dominant) position in the market in accordance with Article 13 of this Law.

3. The undertakings referred to in part one of this Article shall be prohibited from persuading other undertakings to provide any undertakings with preferential conditions in economic activity without objective reasons.

4. The provisions of parts one and three of this Article shall also apply to undertakings if small or medium-sized entrepreneurs depend on them due to the lack of alternative sources of obtaining or supplying a certain type of goods. A seller of a certain type of goods is considered to be dependent on a buyer if the buyer receives from the seller, in addition to traditional trade discounts or other forms of remuneration, special remuneration that other similar buyers do not receive.

Article 20. Discrimination of competitors by undertakings

undertakings that have significantly greater market influence than small or medium-sized entrepreneurs who are their competitors are prohibited from creating obstacles to the economic activity of small or medium-sized entrepreneurs, in particular, from committing actions prohibited under parts one and three of Article 19 of this Law.

Article 21. Restrictive activities of associations/groups

1. Restrictive activity of associations/groups by refusing to admit an undertaking to such an association/group, which puts it at a disadvantage in competition, is not allowed, if such refusal is unreasonable and unjustified.

2. Part one of this Article shall apply to associations/groups if the following conditions are met with respect to them:

An association/group can unite all participants in a particular market or territory;

the association/group is created or operates to achieve non-profit goals;

the establishment and operation of the association/group does not lead to economic concentration and anticompetitive concerted practices under this Law.

Section V CONTROL OF CONCENTRATION OF UNDERTAKINGS

Article 22. Concentration of undertakings

1. In order to prevent from monopolization of commodity markets, abuse of monopoly (dominant) position, and restriction of competition, the bodies of the Antimonopoly Committee of Ukraine exercise state control over the concentration of undertakings (hereinafter referred to as the "concentration").

2. Concentration is considered:

1) merger of undertakings that were not connected by relations of control among themselves;

2) acquisition by one or several undertakings of direct or indirect control over all or parts of one or more other undertakings or other assets, in particular, by:

a) direct or indirect acquisition, acquisition of ownership in another way, management, lease, leasing, concession or acquisition in another way of the right to use assets in the form of a single property complex or structural subdivision of undertaking, including the acquisition of assets of undertaking being liquidated;

b) conclusion of transactions related to the acquisition of rights that make it possible to determine the conditions of economic activity, issue mandatory orders or perform the functions of the management body of undertaking and/or provide a decisive influence on the formation of the management body, on the results of voting or decision-making by bodies of undertakings;

c) direct or indirect acquisition, acquisition of ownership in another way or receipt of shares in management, which provides the opportunity to exercise decisive influence, including reaching or exceeding 25 or 50 percent of the votes in the highest management body of the relevant undertaking;

d) appointment or election to the position of head, deputy head of the supervisory board, board, other supervisory or executive body of undertaking of a person who already holds one or more of the specified positions in other undertakings, or the creation of a situation in which more half of the positions of members of the supervisory board, board, other supervisory or executive bodies of two or more undertakings are held by the same persons;

3) creation by two or more undertakings of an undertaking that will independently carry out fully functional economic activity for a long period.

{Part two of Article 22 as amended by Laws No. 2596-IV as of 31 May 2005, No. 2269-VIII as of 18 January 2018; as amended by Law No. 3295-IX as of 09 August 2023}

3. The following shall not be considered concentration:

1) creation by two or more undertakings of an undertaking that will not independently carry out fully functional economic activity for a long period. Such actions are considered as concerted actions in accordance with the second clause of the first part of Article 5 of this Law;

{Clause 1 of part three of Article 22 as revised under Law No. 3295-IX as of 09 August 2023}

2) acquisition of shares of an undertaking by a person whose main activity is conducting financial transactions or transactions with securities, if such acquisition is carried out for the purpose of the subsequent resale of shares, provided that the specified person does not participate in voting in the higher body or other management bodies of undertaking. In this case, the next resale must be carried out to undertakings not connected by relations of control with this person, whose main activity is financial transactions or transactions with securities, within one year from the date of acquisition of shares. An undertaking whose main activity is conducting financial transactions or transactions with securities must notify the Antimonopoly Committee of Ukraine of such acquisition in accordance with the procedure determined by it within one month from the date of acquisition of the corresponding right to shares of the undertaking.

If it is impossible to carry out the next resale of shares (stocks, units) within one year from the date of their acquisition, an undertaking whose principal activity is conducting financial transactions or transactions with securities, has the right to apply to the Antimonopoly Committee of Ukraine once with a substantiated request for the impossibility of subsequent resale of shares (stocks, units).

The deadline for consideration of a petition on the impossibility of the next resale of shares (stocks, units) by the Antimonopoly Committee of Ukraine is one month.

Based on the results of the consideration of the petition on the impossibility of the next resale of shares (stocks, units), the body of the Antimonopoly Committee of Ukraine makes a decision to extend the period of resale of shares (stocks, units) for no more than one year or to refuse to extend such a period with appropriate justification.

If during the period of consideration of the petition on the impossibility of carrying out the next resale of shares (stocks, units) by the bodies of the Antimonopoly Committee of Ukraine, the decision is not made, the period of resale of shares (stocks, units) shall be considered extended;

{Clause 2 of part three of Article 22 as revised under Law No. 3295-IX as of 09 August 2023}

3) actions carried out between undertakings related by relations of control in cases stipulated by part two of this Article, except for cases of acquisition of such control without obtaining the clearance of the Antimonopoly Committee of Ukraine, if the need for such clearance is stipulated by law;

4) acquisition of control over an undertaking or a part of it, including through the right to manage and dispose of its property by an insolvency officer, official or officer of a public authority;

5) acquisition by a bank or other financial institution of assets in the form of a single property complex, shares (stocks, units) of an undertaking in case such acquisition is provided for in the restructuring plan approved in accordance with the Law of Ukraine "On Financial Restructuring" by foreclosing on the subject of pledge (mortgage) or other security encumbrance, provided that they are subsequently alienated to undertakings not related to the controlling relationship with this bank or this financial institution within two years from the date of such acquisition;

{Part three of Article 22 is supplemented with clause 5 according to Law No. 112-IX as of 19 September 2019 — the amendment shall become invalid simultaneously with the invalidation of the Law of Ukraine "On Financial Restructuring" — see clause 2 of Section II of Law No. 112-IX as of 19 September 2019}

6) acquisition by the bank of assets in the form of a single property complex, shares (stocks, units) of an undertaking as a result of foreclosure on the subject of a pledge (mortgage) or other security encumbrance or as a result of the bank acquiring ownership of the subject of a pledge (mortgage) or other security encumbrance in another way, including within the framework of bankruptcy procedures or executive proceedings, provided that the bank and the undertakings related to it by relations of control will not participate in voting in the supreme body or other management bodies of the undertaking whose shares (stocks, units) are subject to a pledge (mortgage) or other security encumbrance and will not use the assets in the form of a single property complex that is the subject of a pledge (mortgage) or other security encumbrance to carry out economic activities during the entire period of possession of the subject of the pledge (mortgage) or other security encumbrance.

In such a case, the alienation of the subject of the pledge (mortgage) or other security encumbrance must be carried out by this bank to undertakings not related to it by relations of control, within one year from the date of acquisition of the subject of the pledge (mortgage) or other security encumbrance.

The bank is obliged to notify the Antimonopoly Committee of Ukraine about such acquisition of the subject of pledge (mortgage) or other security encumbrance in accordance with the procedure established by it within one month from the date of foreclosure on the corresponding security encumbrance.

If it is impossible to alienate the subject of pledge (mortgage) or other security encumbrance within one year from the date of their acquisition, the bank has the right to apply to the Antimonopoly Committee of Ukraine with a substantiated request about the impossibility of further resale of the subject of pledge (mortgage) or other security encumbrance. At the same time, the term of the bank's ownership of the subject of the pledge (mortgage) or other security encumbrance for the purposes of applying this provision may not exceed three years from the date of foreclosure on the corresponding security encumbrance.

The deadline for consideration of a petition on the impossibility of alienation of the subject of a pledge (mortgage) or other security encumbrance by the body of the Antimonopoly Committee of Ukraine is one month.

Based on the results of the consideration of the petition, the body of the Antimonopoly Committee of Ukraine makes a decision to extend the term of alienation of the subject of pledge (mortgage) or other security encumbrance for no more than two years or a decision to refuse to extend such a term with appropriate justification.

If during the period of consideration of the petition on the impossibility of alienation of the subject of pledge (mortgage) or other security encumbrance by the bodies of the Antimonopoly Committee of Ukraine, no decision has been made, the term of alienation of the subject of pledge (mortgage) or other security encumbrance shall be considered extended.

{Part three of Article 22 is supplemented with clause 6 according to Law No. 3295-IX as of 09 August 2023}

Article 23. Participants of concentration of undertakings

The participants of the concentration are:

undertakings in respect of which a merger or acquisition is or is to be carried out;

undertakings that acquire or intend to acquire control over an undertaking, and undertakings in respect of which control is acquired or is to be acquired;

{Paragraph three of Article 23 as amended by Law No. 2596-IV as of 31 May 2005}

undertakings whose assets (property), shares (stocks, units) are acquired, managed (used), leased, received as a leasing, conceded or are to be acquired, and their buyers (recipients), acquirers;

undertakings that are or intend to become founders (participants) of a newly established undertaking. If one of the founders is an executive authority, local self-government body, administrative and economic management and control body, an undertaking whose assets (property) are contributed to the authorized capital of the newly established undertaking is also considered a participant of the concentration;

{Paragraph five of part one of Article 23 as amended by Law No. 2850-VI as of 22 December 2010}

undertakings that acquire or intend to acquire control over objects of privatization, and objects of privatization or bodies of executive power, local self-government bodies that manage undertakings, assets (property), shares (stocks, units) which are the object of privatization in the process of privatization of state and communal property objects;

{Article 23 is supplemented with a new paragraph according to Law No. 3295-IX as of 09 August 2023}

individuals and legal entities related to the concentration participants referred to in paragraphs two through five of this Article by relations of control, which gives grounds to recognize the relevant group of persons as a single undertaking in accordance with Article 1 of this Law.

Article 24. Cases in which it is necessary to obtain a clearance for the concentration of undertakings

1. The concentration may be carried out only under the condition of obtaining the clearance of the Antimonopoly Committee of Ukraine or the administrative board of the Antimonopoly Committee of Ukraine in all cases provided for in part two of Article 22 of this Law, if:

1) the aggregate value indicators of all parties to the concentration, taking into account relations of control, including abroad, exceed an amount equivalent to 30 million euros, and at the same time, the value indicators in Ukraine of at least two parties to the concentration, taking into account relations of control, exceed the amount, equivalent to 4 million euros, each; or

2) the value indicators in Ukraine of at least one party to the concentration, taking into account relations of control, exceed an amount equivalent to 8 million euros, and at the same time, the volume of sales of goods of at least one other party to the concentration, taking into account relations of control, including abroad, exceeds the amount, equivalent to 150 million euros.

2. For the purposes of calculating the indicators specified in part one of this Article:

the value indicators of the party to the concentration are the greater of the following amounts: the total value of assets as of the last day of the last financial year or the total volume of sales of the undertaking's goods for the last financial year;

Euro equivalents in the national currency of Ukraine are determined at the official exchange rate established by the National Bank of Ukraine effective on the last day of the financial year.

When calculating the volume of sales of goods of the parties to the concentration, the amount of income (revenue) from the sale of products (goods, works, services) is used, after deducting the amount of value added tax, excise tax, other taxes and fees, the basis for taxation of which is turnover, for the last financial reporting year preceding the submission of the application.

3. When calculating the value indicators of the parties to the concentration in cases where the object of acquisition of control (taking into account the legal entities controlled by it) directly or indirectly has no assets and at the same time did not carry out economic activity on the territory of Ukraine during the last two financial years and in the current year, the value indicators of undertakings and parts of undertakings (regardless of whether such parts have the status of a legal entity) with which relations of control are terminated as a result of concentration, shall not be taken into account.

4. For the purposes of calculating the value indicators of the parties to the concentration, the totality of the transactions provided for in **clause 2** of part two of Article 22 of this Law, committed within two years between the same undertakings, which affect or may affect the conditions of turnover of goods on one and the same market and markets adjacent to it are considered to be one concentration of undertakings on the date of the last transaction.

5. If the parties to the concentration are banks, a tenth of the value of the bank's assets is used to calculate the value of the bank's assets and sales volume. If the parties to the concentration are insurers, the amount of net assets is used to calculate the value of the insurer's assets, and the amount of income from insurance activities, determined in accordance with the legislation of Ukraine on insurance activities, is used to calculate the sales volume of goods.

6. The procedure for calculating the indicators used for the purposes of this Article, as well as its specifics for certain categories of undertakings, shall be established by the Antimonopoly Committee of Ukraine.

7. Concentration, which requires a clearance in accordance with part one of this Article, is prohibited until the clearance for its implementation is granted. Prior to the granting of such a clearance, the parties to the concentration are obliged to refrain from actions that may lead to the restriction of competition and the impossibility of restoring the initial state.

8. The clearance for concentration shall not be granted if such concentration is prohibited in accordance with the Law of Ukraine "On Sanctions".

{Article 24 as amended by Laws No. 2596-IV as of 31 May 2005, No. 2856-VI as of 23 December 2010, No. 935-VIII as of 26 January 2016, No. 2195-VIII as of 09 November 2017; as amended by Law No. 3295-IX as of 09 August 2023}

Article 25. Grounds for granting a clearance for concentration of undertakings

1. The Antimonopoly Committee of Ukraine or the administrative board of the Antimonopoly Committee of Ukraine grants a clearance for concentration if such concentration does not lead to monopolization or significant restriction of competition on the market.

{Part one of Article 25 as revised under Law No. 3295-IX as of 09 August 2023}

2. The Cabinet of Ministers of Ukraine may permit a concentration for which the Antimonopoly Committee of Ukraine did not grant a clearance as not meeting the conditions of part one of this

Article, if the positive effect for the public interest of the said concentration outweighs the negative consequences of restriction of competition.

3. A clearance under part two of this Article may not be granted if competition restrictions are caused by concentration:

are not necessary to achieve the concentration objective;

pose a threat to the market economic system.

Section VI

CONSIDERATION OF APPLICATIONS AND CASES FOR GRANTING CLEARANCES FOR CONCERTED ACTIONS, CONCENTRATION OF UNDERTAKINGS

Article 26. Submission of an application for a clearance for concerted actions, concentration of undertakings

1. Participants of the concerted actions, participants of the concentration, authorities, local self-government bodies, administrative and economic management and control bodies shall apply in accordance with the procedure established by the Antimonopoly Committee of Ukraine:

to the Antimonopoly Committee of Ukraine or its territorial branches with an application for clearance for concerted actions;

to the Antimonopoly Committee of Ukraine with an application for concentration.

Participants of the concerted actions, participants of the concentration, authorities, local self-government bodies, administrative and economic management and control bodies shall file a joint application. Restricted information necessary for consideration of the application may be submitted to the relevant bodies of the Antimonopoly Committee of Ukraine by these persons separately.

These persons may appoint a person to represent their interests and submit an application.

The application and attached documents must contain complete and accurate information.

In case of submission of false information, applicants shall be liable in accordance with Article 52 of this Law.

2. The application is considered accepted after 15 days from the date of its receipt, if during this time the State Commissioner of the Antimonopoly Committee of Ukraine, the head of its territorial branch did not return the application to the applicant with a notification that it and other documents do not meet the requirements established by the Antimonopoly Committee of Ukraine and this prevents consideration of the application, and if concentration, concerted actions are not prohibited in accordance with the Law of Ukraine "On Sanctions".

{Paragraph one of part two of Article 26 as amended by Law No. 2195-VIII as of 09 November 2017; as amended by Law No. 3295-IX as of 09 August 2023}

If a participant of the concentration refuses to provide documents and other information required for consideration of the application by the Antimonopoly Committee of Ukraine or the administrative board of the Antimonopoly Committee of Ukraine, the State Commissioner of the Antimonopoly Committee of Ukraine shall, upon request of the applicant, issue an order to provide such information by the participant of the concentration within a specified period of time. The applicant is notified of

the decision. The application shall be deemed accepted for consideration upon receipt of all information provided for by this order.

3. At the request of the applicant, the bodies of the Antimonopoly Committee of Ukraine shall conduct preliminary consultations on information and documents necessary for consideration of the relevant application, including consideration under the simplified procedure, as well as within the period established by part two of this Article, to correct possible deficiencies in the submitted application.

If applicants fail to provide information on the ultimate beneficial owners (controllers) of undertakings participating in the concentration, the Antimonopoly Committee of Ukraine shall decide to refuse to consider the application for a clearance for concentration, concerted actions of undertakings.

The term "ultimate beneficial owner (controller)" is used in the meaning given in the Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Criminal Proceeds, Terrorist Financing, and Financing of Proliferation of Weapons of Mass Destruction".

{Article 26 is supplemented with a new part according to Law No. 935-VIII as of 26 January 2016}

4. If the clearance for concerted actions has been granted by the bodies of the Antimonopoly Committee of Ukraine for a specific period of time, undertakings have the right to apply to the bodies of the Antimonopoly Committee of Ukraine for extension of the clearance. Such an application must be submitted three months before the expiration of the clearance.

5. If the concerted actions or concentration are carried out using competitive procedures (bidding, auctions, contests, tenders, etc.), the application may be submitted both before and after the start of the competitive procedure, but not later than thirty days from the date of announcement of the winner, unless otherwise provided by law.

6. If an undertaking carries out equivalent concerted actions with different undertakings, an application may be submitted in respect of one concerted action, provided that information on all other participants in the concerted actions is provided in accordance with the procedure established by the Antimonopoly Committee of Ukraine.

Article 27. Consideration of an application for a clearance for concerted actions, concentration of undertakings

1. The bodies of the Antimonopoly Committee of Ukraine shall consider the application for approval of concerted actions within three months from the date of its acceptance for consideration by the relevant body of the Antimonopoly Committee of Ukraine.

An application for changes in concerted actions for which a clearance has been obtained from a body of the Antimonopoly Committee of Ukraine, which do not change the circle of participants and do not apply to other commodity markets, shall be considered by the bodies of the Antimonopoly Committee of Ukraine within thirty days.

The Antimonopoly Committee of Ukraine or the administrative board of the Antimonopoly Committee of Ukraine shall review the application for a merger clearance within thirty days from the date of its acceptance for consideration by the relevant body of the Antimonopoly Committee of Ukraine.

The Antimonopoly Committee of Ukraine or the administrative board of the Antimonopoly Committee of Ukraine shall consider the application under the simplified procedure within 25 days from the date of its receipt if:

{Part one of Article 27 is supplemented with paragraph four according to Law No. 935-VIII as of 26 January 2016}

only one participant of the concentration operates in Ukraine, or

{Part one of Article 27 is supplemented with paragraph five according to Law No. 935-VIII as of 26 January 2016}

the aggregate share of the parties to the concentration in the commodity market on which the concentration is carried out does not exceed 15 percent and at the same time the shares or aggregate shares of the parties to the concentration do not exceed 20 percent in the commodity markets of a higher or lower level than the market on which the concentration is carried out.

{Part one of Article 27 is supplemented with paragraph six according to Law No. 935-VIII as of 26 January 2016; as revised under Law No. 3295-IX as of 09 August 2023}

{Paragraph seven of part one of Article 27 is excluded on the basis of Law No. 3295-IX as of 09 August 2023}

The State Commissioner of the Antimonopoly Committee of Ukraine may decide to consider the application under the procedure provided for in clause three of this part if the circumstances provided for in clauses five to seven of this part or other circumstances that may affect the decision-making in accordance with part one of Article 25 of this Law require additional study.

{Part one of Article 27 is supplemented with paragraph eight according to Law No. 935-VIII as of 26 January 2016}

2. The application remains without consideration if the applicant receives a request to withdraw the application and if the concerted actions, concentration are prohibited in accordance with the Law of Ukraine "On Sanctions", which is subject to the order of the relevant body of the Antimonopoly Committee of Ukraine.

{Part two of Article 27 as amended by Law No. 2195-VIII as of 09 November 2017; as amended by Law No. 3295-IX as of 09 August 2023}

3. Leaving the application without consideration does not deprive the applicant of the right to re-apply to the Antimonopoly Committee of Ukraine, its territorial branch.

4. Information regarding the declared concerted actions, namely: the organizational and legal form of the participants of the concerted actions, their location and their representative offices, branches, as well as the type and content of the concerted actions may be published in print or electronic media or made public by the Antimonopoly Committee of Ukraine or its territorial branch in any other way.

{Paragraph three of part four of Article 27 as amended by Law No. 2849-IX as of 13 December 2022}

In addition, other information regarding the declared concerted actions, as well as information on concentration, may be made public if such information has been previously publicly disclosed or the applicant does not object to such publication.

Article 28. Decision-making in applications for clearances for concerted actions, concentration of undertakings

1. If within the period of consideration of the application provided for in part one of Article 27 of this Law, the bodies of the Antimonopoly Committee of Ukraine have not found grounds for the prohibition of concerted actions, concentration, and if the concerted actions, concentration are not prohibited in accordance with the Law of Ukraine "On Sanctions", the bodies of the Antimonopoly Committee of Ukraine make a decision on granting clearance for concerted actions, concentration.

The decision to grant clearance for concerted actions, concentration is also considered to be adopted, if within the term of consideration of the application provided for in the part one of Article 27 of this Law, the bodies of the Antimonopoly Committee of Ukraine have not started the consideration of the case of concerted actions, concentration in accordance with part one of Article 30 of this Law, provided that concerted actions, concentration are not prohibited in accordance with the Law of Ukraine "On Sanctions".

{Part one of Article 28 as amended by Law No. 935-VIII as of 26 January 2016; as amended by Law No. 2195-VIII as of 09 November 2017; as amended by Law No. 3295-IX as of 09 August 2023}

2. The day of decision-making on granting the clearance for concerted actions, concentration, in accordance with part one of this Article, shall be the last day of the term for consideration of the application provided for in part one of Article 27 of this Law.

Article 29. Providing preliminary conclusions on concerted actions, concentration of undertakings

1. The bodies of the Antimonopoly Committee of Ukraine shall provide undertakings, authorities, local self-government bodies, administrative and economic management and control bodies with preliminary conclusions on concerted actions on the basis of the application for preliminary conclusions and the information attached thereto; the Antimonopoly Committee of Ukraine or the administrative board of the Antimonopoly Committee of Ukraine — on concentration.

The term for consideration of applications for preliminary conclusions on concerted actions and concentration shall be one month.

2. Preliminary conclusions of the relevant body of the Antimonopoly Committee of Ukraine shall be provided in the form of a letter stating the following:

the possibility of granting clearance for concerted actions and concentration;

the possibility of refusal to grant clearance for concerted actions and concentration;

the need or absence of the need to obtain a clearance for concerted actions, concentration;

insufficient information for any conclusion.

3. Obtaining preliminary conclusions on concerted actions, concentration does not exempt the participants of the concerted actions, concentration participants, authorities, local self-government bodies, administrative and economic management and control bodies from the need to apply to the relevant bodies of the Antimonopoly Committee of Ukraine for clearance to conduct concerted actions, concentration in cases provided for in Articles 10 and 24 of this Law.

Article 30. Consideration of a case on concerted actions, concentration of undertakings

1. In case of identification of grounds for prohibition of concerted actions or concentration, the relevant bodies of the Antimonopoly Committee of Ukraine shall initiate consideration of the case on

concerted actions or concentration, and shall issue an order and notify the person who filed the application in writing. Along with the notification of the commencement of the case consideration, a list of information is sent to the applicant to be provided for the Antimonopoly Committee of Ukraine to adopt a decision on the case.

Information on the adoption of an order to initiate consideration of a case on concerted actions, concentration (name and legal form of the participants of the concerted actions, concentration, type of concerted actions, concentration) shall be published on the official website of the Antimonopoly Committee of Ukraine within 10 business days from the date of adoption of such an order.

{Part one of Article 30 is supplemented with paragraph two according to Law No. 782-VIII as of 12 November 2015}

{Part one of Article 30 as amended by Law No. 935-VIII as of 26 January 2016}

2. The bodies of the Antimonopoly Committee of Ukraine may request additional information from the applicant (applicants) and other persons if its absence impedes the consideration of the case, as well as commission an expert examination in accordance with the procedure established by Article 43 of this Law.

{Part two of Article 30 as amended by Law No. 2596-IV as of 31 May 2005}

3. The term of consideration of a case on concerted actions or concentration must not exceed three months. The term shall begin on the day the applicant(s) submits the information in full and receives the expert's opinion in accordance with parts one and two of this Article. If no decision is made by the Antimonopoly Committee of Ukraine within the period of consideration of the case, it is considered that the concerted actions or concentration have been approved.

{Paragraph one of part three of Article 30 as amended by Law No. 2596-IV as of 13 December 2022}

The last day of the period of consideration of the case provided for in clause one of this part shall be deemed to be the day of the decision to grant a clearance for concerted actions, concentration.

4. Consideration of the case shall be suspended in case of impossibility of its consideration until the body of the Antimonopoly Committee of Ukraine, the commercial court resolves another related case or until the state body resolves another related issue and for the duration of the examination. The Antimonopoly Committee of Ukraine issues an order to suspend and resume the case consideration, and the applicant is notified of this.

{Paragraph one of part four of Article 30 as amended by Law No. 2596-IV as of 31 May 2005}

The bodies of the Antimonopoly Committee of Ukraine resume consideration of the case after the circumstances that led to its suspension are eliminated.

The time limit for consideration of the case is suspended from the date of suspension of the case. From the date of the resumption of the case consideration, the term of the case continues.

5. Third parties may participate in the consideration of applications and cases if the decision of the bodies of the Antimonopoly Committee of Ukraine may significantly affect their rights and interests protected by this Law.

The issue of involving third parties in the case consideration shall be resolved by the Antimonopoly Committee of Ukraine. The Antimonopoly Committee of Ukraine shall issue an order to engage a third party and notify the parties to the case.

6. The official website of the Antimonopoly Committee of Ukraine publishes information on cases of concerted actions, concentration.

{Article 30 is supplemented with part six according to Law No. 3295-IX as of 09 August 2023}

Article 31. Decisions in cases of concerted actions, concentration of undertakings

1. Based on the results of the review of cases on concerted actions, a decision is made on the concentration:

By the Antimonopoly Committee of Ukraine — on granting clearance for concerted actions; prohibition of concerted actions; granting clearance for concentration; approval of constituent documents of undertakings, associations/groups, or amendments thereto; prohibition of concentration;

by the administrative board of the Antimonopoly Committee of Ukraine — on granting a clearance for concentration; approval of constituent documents of undertakings, associations/groups, or amendments thereto; granting a clearance for concerted actions, except for clearances based on part one of Article 10 of this Law; prohibition of concerted actions;

by the State Commissioner of the Antimonopoly Committee of Ukraine, the relevant administrative board of the territorial branch of the Antimonopoly Committee of Ukraine — on granting clearance for concerted actions, except for clearances based on part one of Article 10 of this Law; prohibition of concerted actions.

2. In case of establishment of grounds for prohibition of concerted actions, concentration, the bodies of the Antimonopoly Committee of Ukraine shall notify their parties of the content of such grounds and establish a thirty-day period for submission by the participants of concerted actions, concentration of proposals on obligations to be undertaken by the participants of such concerted actions, concentration, which eliminate the relevant negative impact of concerted actions, concentration on competition and allow the body of the Antimonopoly Committee of Ukraine to make a decision on granting clearance for concerted actions, concentration. This period may be extended at the request of a participant in the concerted actions or concentration.

{Paragraph one of part two of Article 31 as revised under Law No. 935-VIII as of 26 January 2016}

After the bodies of the Antimonopoly Committee of Ukraine establish the grounds for the prohibition of concerted actions or concentration, the parties to the concerted actions or concentration are given the opportunity to review the case materials. During the review of the case materials, the person conducting the review has the right to make the necessary extracts and copies, including with the use of technical means.

{Part two of Article 31 is supplemented with a new paragraph according to Law No. 3295-IX as of 09 August 2023}

The obligations undertaken by the participants of the concerted actions or concentration must be proportionate to the reasonable threats of negative impact on competition and the alleged concerted actions or concentration, and the requirements for monitoring the fulfillment of the obligations undertaken by the participants of the concerted actions or concentration must not be excessive.

{Paragraph of part two of Article 31 as revised under Law No. 935-VIII as of 26 January 2016}

In order to agree on the necessary obligations and requirements that will determine the decision of the Antimonopoly Committee of Ukraine to grant a clearance for concerted actions, concentration,

the bodies of the Antimonopoly Committee of Ukraine and the participants of concerted actions, concentration, hold appropriate consultations.

{Paragraph of part two of Article 31 as revised under Law No. 935-VIII as of 26 January 2016}

The decision to grant a clearance for concerted actions may be provided for an indefinite or a specified period, which, as a rule, shall not exceed five years.

3. The concerted actions, concentration must be carried out within one year from the date of the decision to grant the clearance for concerted actions, concentration, unless a longer period is specified in the decision. Unless the concerted actions or concentration are completed within this period, the participants of the concerted actions or concentration must submit a new application for the approval of the Antimonopoly Committee of Ukraine for the concerted actions or concentration.

4. The applicant is sent a decision, except for information with restricted access, as well as information determined by the relevant State Commissioner, the head of the territorial branch, the disclosure of which may harm the interests of other persons.

5. The bodies of the Antimonopoly Committee of Ukraine that made the decision have no right to cancel or amend it, except as provided for in Article 58 of this Law. They have the right to correct any misprints or obvious arithmetic errors made in the decision, explain their decision without changing its content, and make an additional decision if no decision has been made on any issue that was investigated during the case.

6. The decision made upon consideration of applications, cases on concerted actions or concentration is published on the official website of the Antimonopoly Committee of Ukraine within 10 business days from the date of its adoption. The decision is to be made public in full, except for the information defined as restricted information. Restricted information must be excluded or blacked out or otherwise modified in a way that ensures sufficient protection and transparency of the decision-making process of the Antimonopoly Committee of Ukraine.

{Part six of Article 31 as revised under Law No. 782-VIII as of 12 November 2015}

Article 32. Grounds for closing the consideration of case on concerted actions, concentration of undertakings

1. Consideration of a case on concerted actions, concentration of undertakings must be closed without a decision on the merits in the case of:

receipt of a petition from the applicant to withdraw the application or to close the case;

failure of the applicant to submit information within the time limit specified by the bodies of the Antimonopoly Committee of Ukraine, heads of its territorial branches, if the absence of such information prevents from the consideration of the case;

a decision of the Antimonopoly Committee of Ukraine recognizing the declared concerted actions or concentration as having been carried out in violation of the legislation on the protection of economic competition;

{Part one of Article 32 is supplemented with paragraph four according to Law No. 3567-VI as of 05 July 2011}

liquidation of the applicant — a legal entity;

{Part one of Article 32 is supplemented with paragraph five according to Law No. 3567-VI as of 05 July 2011}

if concerted actions, concentration are prohibited in accordance with the Law of Ukraine "On Sanctions";

{Part one of Article 32 is supplemented with paragraph six according to Law No. 2195-VIII as of 09 November 2017; as revised under Law No. 3295-IX as of 09 August 2023}

2. Closing of the case consideration on the grounds provided for in clause two or three of part one of this Article must not deprive the applicant of the right to apply to the Antimonopoly Committee of Ukraine, its territorial branch with a new application for consent to concerted actions or concentration.

{Part two of Article 32 as amended by Law No. 3567-VI as of 05 July 2011}

Article 33. Procedure for the Cabinet of Ministers of Ukraine to grant clearances for concerted actions, concentration

1. Within thirty days from the date of adoption of the decision of the Antimonopoly Committee of Ukraine on prohibition of concerted actions or concentration, the persons specified in part one of Article 26 of this Law may apply to the Cabinet of Ministers of Ukraine for clearance to conduct the respective concerted actions or concentration on the basis of part three of Article 10 or part two of Article 25 of this Law.

2. The Cabinet of Ministers of Ukraine shall make a reasoned decision to grant a clearance for concerted actions, concentration or to refuse to grant such a clearance.

3. The decision of the Cabinet of Ministers of Ukraine on granting clearance for concerted actions, concentration may contain certain requirements and obligations to the participants of concerted actions of concentration, including in relation to the performance of certain actions. Such requirements and obligations may not be aimed at exercising long-term control over the activities of participants in concerted actions or concentration.

4. The procedure for granting clearance for concerted actions and concentration by the Cabinet of Ministers of Ukraine shall be established by the Cabinet of Ministers of Ukraine and shall, in particular, provide for:

establishing a commission of independent experts to assess the positive and negative impact of concerted actions and concentration;

establishing the procedure for monitoring the implementation of a decision to grant a clearance for concerted actions or concentration.

5. In case of invalidation of the decision of the Cabinet of Ministers of Ukraine on granting a clearance for concerted actions, concentration or its invalidation in accordance with the established procedure, the bodies of the Antimonopoly Committee of Ukraine shall decide on measures to restore the initial situation or other measures that eliminate or mitigate the negative impact of concerted actions, concentration on competition.

Article 34. Fee for reimbursement of expenses related to the consideration of applications

1. For submission of applications for clearances for concerted actions, concentration, provision of conclusions in accordance with Articles 14 and 29 of this Law, a fee shall be charged in the amounts stipulated by part two of this Article.

2. The fee shall be charged:

for applications for granting a concentration clearance — in the amount of 2,500 tax-free minimum incomes, and in case of payment of the fee in accordance with clause four of this part for providing preliminary conclusions on these issues — in the amount of 1,750 tax-free minimum incomes;

{Paragraph two of part two of Article 34 as amended by Laws No. 935-VIII as of 26 January 2016, No. 3295-IX as of 09 August 2023}

from applications for clearances for concerted actions — in the amount of 1,500 tax-free minimum incomes, and in case of payment of the fee in accordance with clause four of this part for providing preliminary conclusions on these issues — in the amount of 750 tax-free minimum incomes;

{Paragraph three of part two of Article 34 as amended by Laws No. 935-VIII as of 26 January 2016, No. 3295-IX as of 09 August 2023}

from applications for conclusions in accordance with Articles 14 and 29 of this Law — in the amount of 750 tax-free minimum incomes;

{Paragraph four of part two of Article 34 as amended by Laws No. 935-VIII as of 26 January 2016, No. 3295-IX as of 09 August 2023}

for issuance of additional copies of certified copies of decisions on issues provided for in this part — in the amount of 0.5 tax-free minimum incomes for each copy.

3. The fee shall be paid in UAH. Undertakings located outside of Ukraine may pay the fee in euros or US dollars at the official exchange rate of the National Bank of Ukraine on the day of payment.

{Article 34 is supplemented with a new part according to Law No. 3567-VI as of 05 July 2011}

4. The fee shall be credited to the special fund of the State Budget of Ukraine as own revenues of the Antimonopoly Committee of Ukraine and shall be used for the needs of the Antimonopoly Committee of Ukraine and its territorial branches, unless otherwise expressly provided by law.

5. Failure to submit a document confirming payment of the fee to the Antimonopoly Committee of Ukraine, its territorial branch shall be the grounds for leaving the application without motion for a period determined by the body of the Antimonopoly Committee of Ukraine, the head of its territorial branch. In case of non-payment of the fee within the period specified by the body of the Antimonopoly Committee of Ukraine, the head of its territorial branch, the application shall be left without consideration, which does not deprive the applicant of the right to apply to this body with a second application.

6. Submission of a repeated application, in which the circumstances characterizing concerted actions or concentration have not changed significantly, does not require repeated payment of the fee.

Section VII

CONSIDERATION OF CASES FOR VIOLATION OF THE LEGISLATION ON THE PROTECTION OF ECONOMIC COMPETITION

Article 35. Consideration of cases on violation of legislation on the protection of economic competition

1. Consideration of cases on violation of the legislation on the protection of economic competition begins with the adoption of an order to initiate consideration of the case and ends with the adoption of a decision in the case.

2. The bodies of the Antimonopoly Committee of Ukraine when considering a case of violation of the legislation on the protection of economic competition:

collect and analyze documents, expert opinions, explanations of persons, and other information that is evidence in the case, and make decisions in the case within their authority;

receive explanations from the persons involved in the case or any persons at their request or on their own initiative.

3. The official website of the Antimonopoly Committee of Ukraine publishes information on cases of violation of legislation on the protection of economic competition.

{Article 35 is supplemented with part three according to Law No. 3295-IX as of 09 August 2023}

Article 36. Grounds for initiating case consideration

1. The bodies of the Antimonopoly Committee of Ukraine shall initiate case consideration on violation of the legislation on the protection of economic competition for:

applications of undertakings, citizens, associations/groups, institutions, organizations on violation of their rights as a result of actions or inaction defined by this Law as violation of legislation on the protection of economic competition;

submissions of state authorities, local governments, administrative and economic management and control bodies on violations of legislation on the protection of economic competition;

on the initiative of the Antimonopoly Committee of Ukraine;

the fact of inclusion in accordance with the Law of Ukraine "On Prevention of Threats to National Security Related to Excessive Influence of Persons with Significant Economic and Political Weight in Public Life (Oligarchs)" a person who is the owner (founder), beneficiary of the owner (founder), or controller of the owner (founder) of a mass media that has/have a significant influence on the broadcasting market, to the Register of Persons with Significant Economic and Political Influence in Public Life (Oligarchs).

{Part one of Article 36 is supplemented with a new paragraph according to Law No. 1780-IX as of 23 September 2021}

If the applicant submits a petition about the possibility of negative consequences related to the filing of the application and in order to protect its interests, the consideration of the case on violation of the legislation on the protection of economic competition is initiated by the bodies of the Antimonopoly Committee of Ukraine.

2. The bodies of the Antimonopoly Committee of Ukraine have the right not to consider an application for violation of the legislation on the protection of economic competition, if the person who submitted the application does not prove that actions or inaction containing signs of violation of the legislation on the protection of economic competition had or have a direct and negative impact on its rights and/or activities.

The bodies of the Antimonopoly Committee of Ukraine shall notify the applicant by letter of refusal to consider such an application.

{Part two of Article 36 as amended by Law No. 2596-IV as of 31 May 2005; as amended by Law No. 3295-IX as of 09 August 2023}

3. The bodies of the Antimonopoly Committee of Ukraine have the right not to initiate a case review if actions or inactions containing signs of violation of the legislation on the protection of economic competition do not (cannot) have a tangible impact on the conditions of competition on the market.

4. In the case of refusal to consider the case of a person who submitted a statement of violation of the legislation on the protection of economic competition, on the grounds provided for in this Article, the body of the Antimonopoly Committee of Ukraine shall issue a corresponding reasoned order, which shall be sent to such a person within three working days from the day of its adoption.

{Article 36 is supplemented with part four according to Law No. 3295-IX as of 09 August 2023}

Article 37. Commencement of the case consideration

1. In case of detection of signs of violation of the legislation on the protection of economic competition, including consequences of such violation, the bodies of the Antimonopoly Committee of Ukraine shall issue an order to initiate case consideration.

{Part one of Article 37 as amended by Law No. 2596-IV as of 31 May 2005}

2. The order to initiate the case consideration shall be sent to the defendant within three business days from the date of its adoption. If the defendant is identified after the case consideration have been initiated, an order to join the case as a defendant is sent to the defendant within three business days, together with an order to initiate the case.

{Part two of Article 37 as amended by Law No. 2596-IV as of 31 May 2005}

3. A notice of the commencement of the case consideration shall be sent to the applicant and third parties.

4. If it is necessary to conduct an inspection of an undertaking, association, governmental body, local self-government body, administrative-economic management and control body, the body of the Antimonopoly Committee of Ukraine has the right not to issue an order on the initiation of a case and a notification on the initiation of a case before the start of such an inspection, but no more than 20 working days from the day of issuing the order on the initiation of the case consideration.

{Article 37 is supplemented with part four according to Law No. 3295-IX as of 09 August 2023}

Article 37-1. Terms for consideration of cases on violation of the legislation on the protection of economic competition

1. Cases of violation of the legislation on the protection of economic competition are reviewed by the bodies of the Antimonopoly Committee of Ukraine within a reasonable period of time, but no longer than three years from the date of adoption of the order on the initiation of consideration of the case, unless otherwise provided by this Law.

2. If there are reasonable grounds preventing consideration of the case within the period specified in part one of this Article, the bodies of the Antimonopoly Committee of Ukraine may extend this period, but not for more than two years, and the persons participating in the case shall be notified thereof in writing.

3. The time of suspension of consideration of the case in accordance with part two of Article 38 of this Law shall not be included in the term of consideration of the case on violation of the legislation on the protection of economic competition.

4. If the Antimonopoly Committee of Ukraine has not made a decision within the time limit for consideration of the case provided for by parts one and two of this Article, the case shall be closed on the basis of the clause seven of part one of Article 49 of this Law".

{The Law is supplemented with Article 37¹ in accordance with Law No. 3295-IX as of 09 August 2023}

Article 38. Consolidation and separation of cases, suspension of and resumption of case consideration

1. The bodies of the Antimonopoly Committee of Ukraine may issue an order to consolidate several cases into one or to separate a case for separate consideration.

2. Consideration of the case may be suspended at the initiative of the relevant body of the Antimonopoly Committee of Ukraine or at the request of a person participating in the case until the body of the Antimonopoly Committee of Ukraine or the commercial court completes consideration of another case related to this case or until the state body resolves another issue related to it. An order is issued to suspend and resume case consideration.

Article 39. Persons involved in the case

1. The following shall be recognized as persons participating in the case: parties, third parties, and their representatives.

2. The parties to the case are the defendant and the applicant (if the case is initiated upon the relevant application).

An applicant is a person who has filed an application or a petition about a violation of the legislation on the protection of economic competition.

A defendant is a person against whom a case on violation of the legislation on the protection of economic competition is being considered.

A third party is a person involved in a case because the decision may significantly affect his or her rights and interests protected by this Law. The Antimonopoly Committee of Ukraine shall issue an order recognizing a third party, and notify the persons involved in the case.

3. Having established that another person must be involved in the case as a defendant, the bodies of the Antimonopoly Committee of Ukraine shall issue an order to replace the defendant or to involve co-defendants in the case, and notify the persons involved in the case.

Article 40. Rights and obligations of persons involved in the case

1. Persons who participate (participated) in the case have the right to:

get acquainted with the case materials, make copies (photocopies) of the case materials and make extracts (except for information with limited access and information, the disclosure of which may harm the interests of other persons who take part in the case or prevent further consideration of the case) - after receiving a copy of the submission with preliminary conclusions in the case (an extract from the submission that does not contain information with limited access and information determined by the relevant State Commissioner, the head of the territorial branch of the Antimonopoly Committee

of Ukraine, the disclosure of which may harm the interests of other persons who participate (participated) in the case, or prevent further consideration of the case);

{Paragraph two of part one of Article 40 as revised under Law No. 3295-IX as of 09 August 2023}

present evidence, submit petitions, oral and written explanations (objections), and proposals on issues to be examined;

{Paragraph three of part one of Article 40 as amended by Law No. 3486-IV as of 23 February 2006}

receive copies of decisions in the case (excerpts from them, except for information with restricted access, as well as information the disclosure of which may harm the interests of other persons involved in the case);

appeal against decisions and orders of the bodies of the Antimonopoly Committee of Ukraine in accordance with the procedure established by law;

{Paragraph five of part one of Article 40 as revised under Law No. 3295-IX as of 09 August 2023}

use the services of an interpreter;

other rights provided for by the legislation on the protection of economic competition.

{Part one of Article 40 is supplemented with paragraph seven according to Law No. 3295-IX as of 09 August 2023}

2. The persons involved in the case shall exercise their rights in good faith.

3. The documents to which access has been granted to the persons participating in the case may be used by them solely to ensure the exercise of the rights granted to such persons by the legislation on protection of economic competition.

{Article 40 is supplemented with part three according to Law No. 3295-IX as of 09 August 2023}

Article 41. Securing evidence

1. Evidence in the case may be any factual data that makes it possible to establish the presence or absence of a violation.

This data shall be established by the following means: explanations of parties and third parties, explanations of officials and citizens, written evidence, physical evidence and expert opinions.

Oral explanations of the parties, third parties, officials or officers and citizens that contain data indicating the presence or absence of a violation shall be recorded in the protocol.

2. Persons participating in the case have the right to provide evidence.

3. During the consideration of the case, the body of the Antimonopoly Committee of Ukraine, the head of the territorial branch of the Antimonopoly Committee of Ukraine, the employees of the Antimonopoly Committee of Ukraine and the territorial branch authorized by them, collect evidence by taking procedural actions provided for by the legislation on the protection of economic competition, as well as receive evidence from other authorities.

4. Written evidence includes documents (except for electronic documents) on paper copies, other types of documents, their duly certified copies or extracts from them, containing information about the circumstances that are important for the case. Written evidence can be, in particular, acts, notes, correspondence, telegrams, telephone records, illustrations (maps, diagrams, organizational charts, drawings, schemes, etc.). Copies of documents are considered duly certified if they are certified in the manner established by law.

5. Electronic evidence is information in electronic (digital) form containing data on circumstances that are important for the case, in particular electronic documents (including text documents, graphic images, plans, photographs, video and sound recordings, etc.), web - websites (web pages), text, multimedia and voice messages, metadata, databases and other data in electronic form. Such data can be stored, in particular, on portable devices (memory cards, end (terminal) equipment, etc.), servers, backup systems, in other places of data storage in electronic form (including in the Internet).

6. Physical evidence includes objects of the material world, the properties, presence or location of which testify to the circumstances that are important for the case, as well as magnetic, electronic and other material media containing audiovisual information about such circumstances.

7. In the course of actions related to the consideration of the case, the body of the Antimonopoly Committee of Ukraine, the head of the territorial branch of the Antimonopoly Committee of Ukraine, the employees of the Antimonopoly Committee of Ukraine and its territorial branch authorized by them have the right to take photographs, audio or video recordings and recording by means of other technical or software and hardware means (if technically possible)

{Article 41 is supplemented with a new part according to Law No. 3295-IX as of 09 August 2023}

8. Evidence shall be collected by the Antimonopoly Committee of Ukraine and its territorial branches regardless of the location of the evidence.

9. Persons involved in the case have the right to provide evidence and prove its reliability (objectivity).

Article 42. Statute of limitations for bringing to liability for violation of legislation on the protection of economic competition

1. An undertaking may not be held liable for violation of the legislation on the protection of economic competition if the statute of limitations for bringing to liability has expired.

The statute of limitations for bringing to liability for violation of the legislation on the protection of economic competition shall be five years from the date of the violation, and in case of a continuing violation — from the date of termination of the violation.

The statute of limitations for bringing to liability for violations of the legislation on the protection of economic competition provided for in clauses 13-16 of Article 50 of this Law shall be three years from the date of the violation, and in case of a continuing violation — from the date of termination of the violation.

2. The statute of limitations shall be suspended while the Antimonopoly Committee of Ukraine considers the case on violation of the legislation on the protection of economic competition.

Article 43. Ensuring the examination

1. The bodies of the Antimonopoly Committee of Ukraine, on their own initiative or at the request of a person involved in the case, shall have the right to commission an expert examination, and an order shall be issued.

2. When commissioning an expert examination and establishing the range of questions to be put to the experts, the relevant body of the Antimonopoly Committee of Ukraine shall take into account the proposals of the parties and other persons involved in the case. The body of the Antimonopoly Committee of Ukraine must give reasons for rejecting the issues proposed by the persons involved in the case. The order to commission an expert examination specifies the issues that require expert opinions and the person who will conduct the examination.

{Part two of Article 43 as revised under Law No. 3486-IV as of 23 February 2006}

3. The examination shall be carried out by experts of the relevant institutions or other specialists. Any person who has the necessary knowledge to give an opinion may be appointed as an expert.

4. The authority of the Antimonopoly Committee of Ukraine, if it is necessary to give an opinion, may provide the expert with the case materials for review. At the same time, the expert has no right to disclose information with restricted access, as well as information, the disclosure of which may harm the interests of other persons involved in the case or prevent further consideration of the case contained in the case file.

5. The expert has the right to file a request for the provision of materials necessary to give an opinion and to indicate in the opinion the circumstances that are relevant to the case, but in respect of which he or she was not asked questions. An expert has the right to refuse to give an opinion if the materials provided to him/her are insufficient or if he/she does not have the necessary knowledge to fulfill the obligation imposed on him/her.

{Part five of Article 43 as revised under Law No. 3486-IV as of 23 February 2006}

6. If additional research is required, as well as if the conclusions of several experts are contradictory, the Antimonopoly Committee of Ukraine may appoint an additional or repeated examination.

7. An expert shall be criminally liable in accordance with the law for disclosure of restricted information or other information the disclosure of which is prohibited, for giving a false opinion or for refusal to perform his/her duties without good reason.

8. The costs of the examination shall be reimbursed at the expense of the person who committed the violation of the legislation on the protection of economic competition. In case of refusal to compensate for these expenses, the person who incurred these expenses may apply to the commercial court for their compensation.

Article 44. Seizure of evidence, imposing arrest

1. Seizure of written and material evidence, in particular documents, objects or other data carriers, which may indicate signs of violation of the legislation on the protection of economic competition or serve as evidence or a source of evidence in case of violation of the legislation on the protection of economic competition, is carried out on the basis of a court decision of the commercial court in the presence of at least one of the following circumstances:

evidence has not been provided and there are sufficient grounds to believe that documents, objects or other data carriers are in a certain place;

{Paragraph two of part one of Article 44 as revised under Law No. 3295-IX as of 09 August 2023}

there is a threat that the relevant documents, objects, or other media may be destroyed.

2. In case of seizure of original written evidence, the Antimonopoly Committee of Ukraine or its territorial branch, at the request of the person from whom the relevant evidence was seized, shall provide this person with certified copies of such evidence within three days from the date of the request. Copies of written evidence certified by the Antimonopoly Committee of Ukraine or its territorial branch shall have the force of the original when presented to other persons.

3. If the seizure of written evidence is complicated, for example due to its number or due to the fact that only a part of it contains information about circumstances that are important for establishing signs of a violation or for the case, authorized employees of the Antimonopoly Committee of Ukraine or its territorial branches may receive extracts of it, duly certified by the person to whom the documents belong.

If the State Commissioner of the Antimonopoly Committee of Ukraine, the head of the territorial office of the Antimonopoly Committee of Ukraine, the employees of the Antimonopoly Committee of Ukraine or its territorial branch authorized by them, who have the authority to perform the relevant procedural actions provided for by this Law, are denied access to premises, other possessions or other places of storage of information carriers or create other obstacles and at the same time there are sufficient grounds to believe that in such premises, other possessions or another place of storage of information carriers may be stored items, documents or other information carriers that may testify to signs of violation or be evidence in the case, authorized employees of the Antimonopoly Committee of Ukraine, the territorial branch of the Antimonopoly Committee of Ukraine have the right to seal such premises or other places of storage of information carriers in order to ensure the preservation of evidence for the period and in the amount necessary for conducting an inspection on the basis of a court decision of the commercial court. The term for which the premises, other property or other place of storage of information carriers is sealed is determined by a decision of the commercial court.

A protocol is drawn up on the sealing of the premises, other possession or other place of storage of information carriers, that indicates which premises, other possession or other place of storage of information carriers is sealed and for what period, as well as the grounds that allow it to be assumed that in such a place, other possession or other place of storage of information carriers, objects, documents or other information carriers are stored that may indicate signs of violation or serve as evidence in the case.

A copy of the protocol on sealing the premises, other possession or other place of storage of information carriers is provided to the present attorney, a representative of the object of inspection, the premises, other possession or other place of storage of information carriers of which is sealed. In the absence of the specified persons, a copy of the protocol is sent by mail no later than the next day after the end of the inspection.

The employees of the object of inspection shall ensure the inviolability of the sealed premises, other possession or other place of storage of information carriers and the integrity of seals until the expiration of the period specified in the sealing protocol. Access of any persons without the participation of the authorized employees of the Antimonopoly Committee of Ukraine, territorial branch of the Antimonopoly Committee of Ukraine conducting the inspection to the sealed premises, other property or other place of storage of information carriers is prohibited and entails liability established by law.

At the request of persons from whom the originals of written evidence were seized, such evidence may be returned after the expiry of the period for appealing the relevant decision of the body of the Antimonopoly Committee of Ukraine to the commercial court. The Antimonopoly Committee of

Ukraine, the territorial branch of the Antimonopoly Committee of Ukraine keeps a copy of the written evidence, duly certified by the person to whom the original is returned.

In some cases, material evidence, after its inspection and research by the relevant body of the Antimonopoly Committee of Ukraine, may be returned at the request of the persons from whom it was received, before resolving the issue on the initiation of the case and/or the end of the case, if the fulfillment of such a request does not prevent the resolution of the issue essentially.

If there is a substantiated request of the object of inspection, the bodies of the Antimonopoly Committee of Ukraine may decide to unseal (unseal the premises (other property), electronic communications system or the place of storage of information of the object of inspection, by the employees of the Antimonopoly Committee of Ukraine, its territorial branch by the term specified in the corresponding protocol.

4. If it is impossible to seize the evidence, the State Commissioner, the head of the territorial branch of the Antimonopoly Committee of Ukraine or the employees of the Antimonopoly Committee of Ukraine or its territorial branch authorized by them shall impose an arrest on property, objects, documents, other data carriers that may indicate signs of a violation or serve as evidence in the case, in accordance with the procedure established by the Antimonopoly Committee of Ukraine in accordance with this Law.

Arrest is imposed on the basis of a court decision of a commercial court on evidence that, due to its technical structure or other properties, cannot be transported or whose transportation can be complicated, as well as if their seizure is impossible or impractical for other reasons.

Imposing arrest of evidence consists in carrying out their description and declaring a ban on their disposal, and, if necessary, in limiting the right to use them. The types, scope and term of sealing, seizure, imposing an arrest are established by a court decision of the commercial court in each specific case, taking into account the features of the property, its importance for the activity of the undertaking, association, government body, local self-government body, administrative and economic management and control body that is checked, the need for its use and other circumstances.

Violation of the ban on disposal or use of property, objects, documents, other data carriers, which have been seized, entails liability established by law.

5. Seizure or imposing arrest of property, objects, documents, other media is carried out during working hours from 8 a.m. to 6 p.m. in the premises of undertakings, associations, authorities, local self-government bodies, administrative and economic management and control bodies, at the workplaces of employees, on the basis of a decision of the commercial court.

The time for carrying out the specified actions may be extended if it is necessary to complete the procedural actions in full, if a delay in carrying out such actions or their failure to complete may lead to the loss of evidence, but no later than 21 hours.

It is not allowed to carry out the specified actions from 9 p.m. to 7 a.m. or on holidays, non-working days and weekends.

Seizure or imposing arrest of property, objects, documents, other media is carried out under the condition that such actions are recorded by means of audio or video recording and in the presence of at least two authorized employees of the Antimonopoly Committee of Ukraine or its territorial branch.

Seizure or imposing arrest of property, objects, documents, other media at the request of the person from whom such seizure or arrest is carried out takes place in the presence of a lawyer or other authorized representative of such person. Failure of a lawyer or an authorized representative of a person to appear for participation in such action within three hours does not prevent its performance.

A protocol is drawn up on seizure or imposing arrest of property, objects, documents, other media, which is signed by two authorized employees of the Antimonopoly Committee of Ukraine, its territorial branch, who carried out the seizure and arrest, and by the persons who were present during the seizure and imposing arrest.

The protocol on seizure or imposing arrest of property, items, documents, other data carriers shall contain the following information:

- 1) date of its compilation and number;
- 2) surname, first name, patronymic (if any) and position of the authorized employees of the Antimonopoly Committee of Ukraine or its territorial branch who carried out the seizure or imposed the arrest;
- 3) address of the object of inspection, at which the property, items, documents, and other data carriers are seized or arrested;
- 4) list of property, items, documents, other data carriers seized or arrested;
- 5) surname, first name, patronymic (if any) of persons in whose presence the property, items, documents, other data carriers were seized or arrested;
- 6) grounds for seizure or arrest of property, objects, documents, other information carriers.

In case of refusal of the persons who were present during the seizure or arrest, to sign the protocol, an entry shall be made therein. The person who was present during the seizure or arrest has the right to provide explanations and comments on the content of the protocol, which are attached to it, as well as to state the reasons for refusing to sign the protocol.

A copy of the protocol on seizure or arrest is provided to the person present during the seizure or arrest, to the manager or authorized representative of the subject of inspection or to the lawyer of the person subject to the inspection. In the absence of the specified persons, a copy of the protocol is sent to the undertaking, association, authority, local self-government body, administrative and economic management and control body, or the person for whom the inspection was conducted, at the address of the actual location by registered letter with delivery notice no later than the next day after the end of the inspection.

{Part five of Article 44 as revised under Law No. 3295-IX as of 09 August 2023}

6. The return of seized items, documents, and other data carriers shall be documented by a protocol in accordance with the procedure established for seizure.

The State Commissioner of the Antimonopoly Committee of Ukraine, the head of the territorial branch of the Antimonopoly Committee of Ukraine shall issue an order to return or lift the arrest of property, items, documents, and other data carriers.

7. The Antimonopoly Committee of Ukraine, its territorial branches ensure the accounting and storage of seized evidence.

Failure to ensure proper accounting and conditions of storage, transfer of seized evidence, which caused their loss, damage, spoilage, deterioration of features, due to which they have evidentiary value, is the basis for holding the persons responsible for the said consequences to legal liability.

{Part seven of Article 44 as revised under Law No. 3295-IX as of 09 August 2023}

Article 44-1. Conducting an inspection

1. During the exercise of state control over compliance with the legislation on the protection of economic competition, in particular, the detection and termination of violations of the legislation on the protection of economic competition, the Antimonopoly Committee of Ukraine, its bodies, its territorial branches, employees of the Antimonopoly Committee of Ukraine and its territorial branches may conduct inspections of undertakings, associations, authorities, local self-government bodies, administrative and economic management and control bodies.

Inspections specified in clause one of this part may be carried out:

in connection with the consideration of applications of citizens, undertakings, associations, institutions, organizations on the violation of their rights as a result of actions or inaction defined by the Law of Ukraine "On the Protection of Economic Competition" as a violation of the legislation on the protection of economic competition;

in connection with consideration of submissions by governmental authorities, local self-government bodies, administrative and economic management and control bodies on violations of the legislation on the protection of economic competition;

in connection with the direct detection by the bodies and officials of the Antimonopoly Committee of Ukraine of signs of violations of the legislation on the protection of economic competition;

in connection with the consideration of cases of violation of legislation on the protection of economic competition;

in case of necessity to verify information obtained in connection with the implementation of state control over compliance with the legislation on the protection of economic competition.

The term of the inspection may not exceed 30 calendar days, unless otherwise established by the decision of the commercial court. This term can be extended by a decision of the commercial court at the substantiated request of the Antimonopoly Committee of Ukraine, its territorial branch in the event of:

written consent of the undertaking, association, governmental body, local self-government body, administrative and economic management and control body that is being checked — but for no more than 30 calendar days;

submission of a petition by an undertaking, association, government body, local self-government body, administrative and economic management and control body that is being inspected, to extend the inspection period due to the need for such an undertaking to prepare the information necessary for the inspection, — but for no more than 30 calendar days;

if there is a need to conduct an examination — but no more than for the period of such an examination.

2. The inspection provided for part one of this Article is carried out on the basis of the decision of the commercial court and the order of the body of the Antimonopoly Committee of Ukraine or the

head of the territorial branch of the Antimonopoly Committee of Ukraine, adopted in accordance with such a decision.

The order to conduct an inspection shall contain:

- 1) number, date and place of its adoption;
- 2) position, surname, first name, patronymic (if any) of the person who issued the order;
- 3) number and date of the decision of the commercial court;
- 4) number of the case in which the inspection is being carried out and the details of the order to initiate it, if any
- 5) name of the object of the inspection;
- 6) data on the composition of the inspection commission;
- 7) start and end dates of the inspection, list of issues to be clarified during the inspection;
- 8) information on the rights and obligations of the members of the commission and participants of the object of inspection;
- 9) a warning of the statutory responsibility for obstructing the inspection.

3. The procedure for conducting an inspection is approved by the Antimonopoly Committee of Ukraine in accordance with the requirements of this Law.

The form of the order provided for in part two of this Article and the form of the inspection report are approved by the Antimonopoly Committee of Ukraine.

4. The inspection commission is formed from the number of employees of the Antimonopoly Committee of Ukraine, its territorial branch, consisting of at least three people.

Members of the inspection commission have the right to:

- 1) on the basis of a decision of a commercial court, to have unhindered access to premises, other possessions, other places of storage of information in the possession and/or use of the object of inspection (computers, technical means of electronic communications and storage of information, servers, safes, workplaces of employees, etc.);
- 2) receive copies or extracts from documents, seize property, objects, documents, other information carriers, originals or duly certified copies of such property, objects, documents, other data carriers, and continue the selection of copies of property, objects, documents, other information carriers or extracts from them in the premises of the body of the Antimonopoly Committee of Ukraine or in any other premises equipped for this purpose;
- 3) on the basis of a decision of the commercial court, to seal premises, other possessions, electronic communications systems or information storage places that are in the possession and/or use of the object of inspection;
- 4) on the basis of a decision of a commercial court, conduct an inspection of the premises and other possessions that are in the possession and/or use of the inspection object;
- 5) demand from the manager, officials and other employees or representatives of the object of inspection, other persons to provide oral or written explanations regarding the facts, documents related to the purpose and subject of the inspection;

6) take photos, audio or video recordings, use other technical or software and hardware means to obtain evidence;

7) to prohibit persons who are in the premises, other property or other place of information storage during the inspection, as well as persons who during the inspection entered the premises, other property of the subject of the inspection, to perform any actions with the documents, items and other data carriers until the end of the inspection.

5. In case of obstruction to the inspection or in order to prevent the creation of obstacles, the inspection may be carried out with the involvement of police officers, employees of other law enforcement and customs bodies. Policemen, employees of other law enforcement and customs bodies have no right to interfere in the course of the inspection.

At the request of the object of inspection, a lawyer or a specialist in the field of law, with whom such a person has entered into an agreement on the provision of legal assistance, is involved in the inspection. Failure of a lawyer (specialist in the field of law), an authorized representative of a person to appear to participate in the inspection within three hours does not prevent it from being carried out.

6. The inspection is carried out during working hours, between 8:00 a.m. and 6:00 p.m.

The time of the inspection may be extended if it is necessary to carry out procedural actions in full, if the delay in carrying out such actions or their non-completion may lead to the loss of evidence, but no later than 21 hours.

Conducting an inspection is not allowed from 9 p.m. to 7 a.m. and on holidays, non-working days, and weekends.

The first day of inspection is considered the day of arrival of members of the inspection commission at the object of inspection.

7. The members of the inspection commission are obliged to treat the persons present during the inspection with respect, to explain their rights and obligations, to present official documents before the inspection and during the inspection to other persons present at their request an official ID and a duly certified copy of the inspection order.

The owner, manager and officials, employees of the inspected entity, other persons present are obliged not to obstruct the inspection. Officials, employees of the inspected entity are required to provide explanations on the issue of the inspection.

8. According to the results of the inspection, within 10 working days from the day of its completion, an act on the inspection is drawn up.

The act of inspection shall contain the following:

- 1) start and end date of the inspection;
- 2) surname, first name, patronymic (if any) and position of members of the inspection commission;
- 3) the address of the object of inspection, at which the inspection was carried out;
- 4) actions and measures taken by members of the inspection commission during the inspection;
- 5) information on the sealing of premises, electronic communications systems or places of information storage and removal of seals;

6) information on the production of copies of documents during the inspection;

7) if available - the number of the case on violation of the legislation on the protection of economic competition, in the framework of which the inspection was carried out;

8) explanation of the owner, manager, officials, employees, authorized representative of the object of inspection regarding the premises, other possessions, electronic communication systems or the place of storage of information that are in the possession and/or use of the object of inspection.

The act of inspection is sent to the undertaking, association, authority, local self-government body, administrative and economic management and control body at the address of its actual location by registered letter with a notice of delivery no later than the next working day after the end of the inspection.

9. In case of disagreement with the conclusions of the inspection or the facts and data set forth in the act of conducting the inspection, the undertaking, association, authority, local self-government body, administrative and economic management and control body has the right to submit objections and explanations within 10 working days from the date of receipt of the act.

10. Photos, audio and video recordings that record the inspection process are attached to the inspection report and are an integral part of it.

11. Materials, evidence, information collected or removed during the inspection may be used by the bodies of the Antimonopoly Committee of Ukraine to establish signs of violation of the legislation on the protection of economic competition and/or consider the case of violation of the legislation on the protection of economic competition, within the framework of which the inspection was carried out.

{The Law is supplemented with Article 44¹ in accordance with Law No. 3295-IX as of 09 August 2023}

Article 45. Facilitating the consideration of a case on violation of the legislation on the protection of economic competition

In order to ensure the consideration of the case of violation of the legislation on the protection of economic competition, in particular, the implementation of the actions provided for in Article 44 of this Law, the National Police, other law enforcement agencies, tax and customs authorities, as well as other state bodies that exercise state control over compliance with the legislation by legal entities and individuals, in accordance with the procedure defined by the legislation, interact with the Antimonopoly Committee of Ukraine, its territorial branches by reporting factual circumstances that indicate or may indicate signs of violation of the legislation on the protection of economic competition.

{Article 45 as amended by Laws No. 406-VII as of 04 July 2013, No. 901-VIII as of 23 December 2015, No. 440-IX as of 14 January 2020; the text of Article 45 as amended by Law No. 3295-IX as of 09 August 2023}

Article 46. Recommendations of the Antimonopoly Committee of Ukraine

1. The bodies of the Antimonopoly Committee of Ukraine shall have the right to provide recommendations to authorities, local self-government bodies, administrative and economic management and control bodies, undertakings, associations/groups regarding the termination of actions that contain signs of violation of the legislation on the protection of economic competition, elimination of the causes of such violations and conditions that facilitate them, and, if the violation is

terminated, to take measures to eliminate the consequences of such violations. Recommendations are provided in the form of a letter.

2. Recommendations of the bodies of the Antimonopoly Committee of Ukraine shall be subject to mandatory consideration by the bodies or persons to whom they are submitted. The results of their consideration shall be reported to the Antimonopoly Committee of Ukraine, its territorial branch within ten days from the date of receipt of the recommendations, unless the Antimonopoly Committee of Ukraine extends this period.

3. Subject to the provisions of the recommendations, if the violation has not led to a significant restriction or distortion of competition, has not caused significant damage to individuals or society, and appropriate measures have been taken to eliminate the consequences of the violation, consideration of case on the violation of the legislation on the protection of economic competition shall not be initiated, and the initiated case consideration shall be closed.

4. Bodies of the Antimonopoly Committee of Ukraine publish recommendations to undertakings, associations, authorities, local self-government bodies, administrative and economic management and control bodies on the official website of the Antimonopoly Committee of Ukraine within 10 working days from the date of their submission. Recommendations are to be made public in full, except for information with restricted access. Information with restricted access must be excluded, blacked out or changed in another way, which ensures its sufficient protection and at the same time the completeness of the substantiation of the recommendations provided by the body of the Antimonopoly Committee of Ukraine.

{Article 46 is supplemented with part four according to Law No. 3295-IX as of 09 August 2023}

Article 46-1. Settlement of cases on anticompetitive concerted actions and abuse of a monopoly (dominant) position on the market

1. An undertaking that has committed a violation of the legislation on the protection of economic competition in the form of anticompetitive concerted actions (except for violations provided for in clause 4 of part two of Article 6 of this Law) or abuse of a monopoly (dominant) position on the market may be subject to a settlement procedure in the case.

At the same time, a participant in anticompetitive concerted actions may be released from liability in accordance with the procedure provided for in Article 52-1 of this Law.

2. In order to apply the settlement procedure in the case, the defendant submits an application to the Antimonopoly Committee of Ukraine before sending preliminary conclusions in the case of violation of the legislation on the protection of economic competition.

3. The settlement is carried out by signing an agreement on the settlement of the case between the body of the Antimonopoly Committee of Ukraine, whose authority is to make a decision in the case, and the defendant in the manner determined by the Antimonopoly Committee of Ukraine in accordance with this Law.

4. The settlement procedure in the case is considered to have started if the body of the Antimonopoly Committee of Ukraine has notified the defendant in writing of the consent to the application of the settlement procedure in the case.

5. The body of the Antimonopoly Committee of Ukraine has the right to acquaint the defendant with certain evidence in the case.

6. The information received by the Antimonopoly Committee of Ukraine during the application of the settlement procedure is official information. The body of the Antimonopoly Committee of Ukraine can disclose information about the progress and content of negotiations regarding the settlement of the case only with the consent of the defendant.

7. The essential terms of the settlement agreement are:

1) recognition by the defendant of the fact of committing a violation, which is the subject of consideration in the case;

2) the circumstances of the violation recognized by the defendant;

3) termination of the violation;

4) proposals and guarantees of the defendant regarding the elimination of the causes of such violations and the conditions contributing to their occurrence (if available), as well as regarding the elimination of the consequences of the violation (if available);

5) reduction of the fine by 15 percent compared to the amount of the fine determined upon adoption of the decision provided for by clauses two and seven of the part one of Article 48 of this Law.

The settlement agreement may also contain other conditions and obligations on which the defendant and the body of the Antimonopoly Committee of Ukraine have reached an agreement.

8. The case settlement agreement concluded between the body of the Antimonopoly Committee of Ukraine and the defendant is the basis for the adoption of a decision by the body of the Antimonopoly Committee of Ukraine in the case of violation of the legislation on the protection of economic competition in relation to this defendant in accordance with the terms of the specified agreement.

9. The body of the Antimonopoly Committee of Ukraine terminates the settlement procedure in the case if:

no agreement has been reached with the defendant on the issues specified in part seven of this Article;

the defendant has not sent the case settlement agreement signed by him to the body of the Antimonopoly Committee of Ukraine.

The body of the Antimonopoly Committee of Ukraine notifies the defendant in writing about the termination of the settlement procedure in the case.

10. In case of failure to reach an agreement on the essential terms of the settlement agreement, the defendant's consent to participate in the settlement procedure, the explanations provided by the defendant during the negotiations on the settlement procedure in the case cannot be considered as recognition by the defendant of the fact of the violation and cannot be used as evidence of the violation.

11. The settlement procedure in the case cannot be applied if the violation could not and cannot be stopped, and its causes and consequences could not and cannot be eliminated by the actions of the defendant.

12. The settlement procedure in the case does not apply to the undertaking, if the case on anticompetitive concerted actions or abuse of a monopoly (dominant) position in the market was

initiated within five years from the day it was brought to justice for the same violation committed earlier.

{The Law is supplemented with Article 46¹ in accordance with Law No. 3295-IX as of 09 August 2023}

Article 47. Preliminary decision in the case

1. In the course of consideration of the case, the bodies of the Antimonopoly Committee of Ukraine, upon the application submitted by an undertaking for taking measures to prevent negative and irreparable consequences for undertakings as a result of violation of the legislation on the protection of economic competition, may make a preliminary decision on:

prohibiting a person (defendant) whose actions are considered to be in violation of the law from taking certain actions, including blocking securities;

mandatory performance of certain actions, if the immediate performance of these actions is necessary based on the legitimate rights and interests of other persons.

2. The preliminary decision may be appealed in accordance with the procedure established by Article 60 of this Law within fifteen days from the date of its receipt. This period cannot be extended.

3. If the case consideration is closed due to failure to prove the violation, the defendant may apply to the commercial court for reimbursement of losses incurred in connection with the preliminary decision by the undertaking that filed the application in accordance with part one of this Article.

4. The preliminary decision, unless a shorter period is specified therein, shall cease to have effect from the date of receipt by the defendant of the decision made upon consideration of the case.

5. Bodies of the Antimonopoly Committee of Ukraine publish preliminary decisions on the official website of the Antimonopoly Committee of Ukraine within 10 working days from the day of their adoption. Preliminary decisions are subject to publication in full, except for information with limited access. Information with limited access should be excluded, blacked out or changed in another way, which ensures its sufficient protection and, at the same time, complete justification of the decision taken by the body of the Antimonopoly Committee of Ukraine.

{Article 47 is supplemented with part five according to Law No. 3295-IX as of 09 August 2023}

Article 48. Decisions in cases of violation of legislation on the protection of economic competition

1. Based on the results of consideration of cases on violation of the legislation on the protection of economic competition, the bodies of the Antimonopoly Committee of Ukraine shall make decisions, including on:

recognition of a violation of the legislation on the protection of economic competition;

to terminate violations of the legislation on the protection of economic competition;

obligations of the authority, local self-government body, administrative and economic management and control body to cancel or amend the decision taken by it or to terminate agreements recognized as anticompetitive by the authorities, local self-government bodies, administrative and economic management and control bodies;

recognition of an undertaking as holding a monopoly (dominant) position in the market;

forced division of an undertaking that holds a monopoly (dominant) position in the market;
imposition of a fine;
blocking of securities;

Eliminating the consequences of violations of the legislation on the protection of economic competition, in particular, eliminating or mitigating the negative impact of concerted actions and concentration of undertakings on competition;

{Paragraph nine of part one of Article 48 as revised under Law No. 3567-VI as of 05 July 2011}

cancellation of the clearance for concerted actions in case of actions prohibited under Article 19 of this Law;

{Paragraph eleven of part one of Article 48 is excluded on the basis of Law No. 782-VIII as of 12 November 2015}

closing the consideration of the case.

2. The bodies of the Antimonopoly Committee of Ukraine shall publish the decision on the results of consideration of cases on violation of the legislation on the protection of economic competition on the official website of the Antimonopoly Committee of Ukraine within 10 (ten) working days from the date of its adoption. The decision is to be made public in full, except for the information defined as restricted information. Restricted information must be excluded or blacked out or otherwise modified in a way that ensures sufficient protection and transparency of the decision-making process of the Antimonopoly Committee of Ukraine.

{Article 48 is supplemented with a new part according to Law No. 782-VIII as of 12 November 2015}

3. The bodies of the Antimonopoly Committee of Ukraine that made the decision have no right to cancel or amend it, except as provided for in Article 58 of this Law. They have the right to correct any misprints or obvious arithmetic errors made in the decision, explain their decision without changing its content, and make an additional decision if no decision has been made on any issue that was investigated during the case.

4. In order to protect the public interest or prevent negative or irreparable consequences for undertakings, the bodies of the Antimonopoly Committee of Ukraine shall decide to recognize a decision made in accordance with part one of this Article, part one of Article 30 of the Law of Ukraine "On Protection Against Unfair Competition" as such, which shall not be suspended due to:

initiation by the commercial court of proceedings to invalidate it;

review of the relevant decision (resolution) of the commercial court.

{Paragraph of part of Article 48 as revised under Law No. 762-IV as of 15 May 2003}

The decision of the body of the Antimonopoly Committee of Ukraine provided for in this part may be made at the request of persons participating in the case or on the own initiative of the bodies of the Antimonopoly Committee of Ukraine. Such a decision may be made both before filing the relevant application with the commercial court and after filing such an application, unless the commercial court suspends the appealed decision of the Antimonopoly Committee of Ukraine.

Article 48-1. The State register of undertakings brought to liability for committing a violation in the form of anticompetitive concerted actions related to the distortion of the results of auctions, contests, tenders.

1. The Antimonopoly Committee of Ukraine for the purposes of the Law of Ukraine "On Public Procurement" creates, maintains and publishes a single open State register of undertakings that have been prosecuted for committing a violation provided for in clause 4 of part two of Article 6, clause 1 of Article 50 of the Law of Ukraine "On the protection of economic competition", in the form of anticompetitive concerted actions related to the distortion of the results of auctions, contests, tenders (hereinafter referred to as the State Register).

The procedure for maintaining and accessing the State Register is determined by a regulatory act of the Antimonopoly Committee of Ukraine.

2. Access to information from the State Register is free and free of charge.

3. In particular, the following information is published in the State Register:

1) requisites of the decision to prosecute for committing a violation in the form of anticompetitive concerted actions related to the distortion of the results of auctions, contests, tenders;

2) the name of the body of the Antimonopoly Committee of Ukraine that made the decision;

3) names of undertakings that committed such violations, their identification codes.

{The Law is supplemented with Article 48¹ in accordance with Law No. 3295-IX as of 09 August 2023}

Article 49. Grounds for closing a case on violation of the legislation on the protection of economic competition

The proceedings on violation of the legislation on the protection of economic competition shall be closed without a decision on the merits if:

the case is not subject to consideration by the Antimonopoly Committee of Ukraine, its territorial branch;

the defendant has not been identified or located;

the defendant legal entity has been liquidated;

the Antimonopoly Committee of Ukraine has already considered or is considering a case on the same grounds against the same defendant;

no violation has been proven;

time limits for consideration of cases of violations of the legislation on the protection of economic competition, provided for in Article 37-1 of this Law, have expired;

{Article 49 is supplemented with a new paragraph according to Law No. 3295-IX as of 09 August 2023}

there are other grounds provided for by law.

Section VIII

LIABILITY FOR VIOLATION OF LEGISLATION ON THE PROTECTION OF ECONOMIC COMPETITION

Article 50. Violation of legislation on the protection of economic competition

Violations of legislation on the protection of economic competition are:

- 1) anticompetitive concerted actions;
 - 2) abuse of monopoly (dominant) position;
 - 3) anti-competitive actions of authorities, local self-government bodies, administrative and economic management and control bodies;
 - 4) failure to comply with the decision or preliminary decision of the Antimonopoly Committee of Ukraine or their implementation in full;
 - 5) implementation by participants of concerted actions — undertakings — of actions prohibited in accordance with part five of Article 10 of this Law;
 - 6) delegation of powers of authorities or local self-government bodies in cases prohibited under Article 16 of this Law;
 - 7) performing actions prohibited under Article 17 of this Law;
 - 8) restrictive and discriminatory activities prohibited under part two of Article 18, Articles 19 and 20 of this Law;
 - 9) restrictive activities prohibited under part one of Article 18 of this Law;
 - 10) failure to comply with the conditions provided for in paragraphs 2, 5 and 6 of part three of Article 22 of this Law;
- {Clause 10 of Article 50 as revised under Law No. 3295-IX as of 09 August 2023}*
- 11) violation of the provisions of the constituent documents of the undertaking created as a result of the concentration, if this leads to restriction of competition, approved by the bodies of the Antimonopoly Committee of Ukraine;
 - 12) concentration without obtaining an appropriate clearance from the Antimonopoly Committee of Ukraine, if such a clearance is required;
 - 13) failure to submit information to the Antimonopoly Committee of Ukraine, its territorial branch within the time limits established by the bodies of the Antimonopoly Committee of Ukraine, the head of its territorial branch or regulatory acts;
 - 14) submission of incomplete information to the Antimonopoly Committee of Ukraine, its territorial branch within the time limits established by the bodies of the Antimonopoly Committee of Ukraine, the head of its territorial branch or regulatory acts;
 - 15) submitting false information to the Antimonopoly Committee of Ukraine, its territorial branch;
 - 16) creating obstacles for employees of the Antimonopoly Committee of Ukraine, its territorial branch in conducting inspections, examination, seizure or arrest of property, documents, objects or other data carriers;
 - 17) providing recommendations to undertakings, associations/groups, authorities, local self-government bodies, administrative and economic management and control bodies that encourage or facilitate violations of the legislation on the protection of economic competition;

18) restrictions on the business activities of an undertaking in response to the fact that it has filed a complaint with the Antimonopoly Committee of Ukraine or its territorial branch regarding violation of the legislation on the protection of economic competition;

19) failure by the participants of concerted actions, concentration to fulfill the requirements and obligations that were the basis for the decision to grant clearance for concerted actions, concentration;

20) restrictive activities of associations/groups prohibited under Article 21 of this Law;

21) unsealing premises, electronic communication systems, other possessions or places of information storage sealed by employees of the Antimonopoly Committee of Ukraine, its territorial branch.

{Article 50 is supplemented with clause 21 according to Law No. 3295-IX as of 09 August 2023}

Article 51. Types of liability

Violation of the legislation on the protection of economic competition entails liability established by law.

Article 52. Fines

1. The Antimonopoly Committee of Ukraine imposes fines on associations/groups and undertakings:

legal entities;

individuals;

a group of undertakings — legal entities and/or individuals, which is recognized as an undertaking in accordance with Article 1 of this Law, in cases provided for in part four of this Article.

2. For violations provided for by:

clauses 1, 2 and 4 of Article 50 of this Law, fines shall be imposed in the amount of up to ten percent of the undertaking's income (revenue) from the sale of products (goods, works, services) for the last reporting year preceding the year in which the fine is imposed. If there is an illegally obtained profit exceeding ten percent of the said income (proceeds), a fine shall be imposed in an amount not exceeding triple size of the illegally obtained profit. The amount of illegally obtained profit can be calculated by estimation;

clauses 5, 8, 10, 11, 12 and 19 of Article 50 of this Law, fines shall be imposed in the amount of up to five percent of the undertaking's income (revenue) from the sale of products (goods, works, services) for the last reporting year preceding the year in which the fine is imposed. In the event that an undertaking committed a violation provided for in clause 12 of Article 50 of this Law by 31 December 2020, and such violation was related to actions recognized as concentration in accordance with part two of Article 22 of this Law, in respect of which such undertaking (if it is an individual) or an individuals who exercises control over such an undertaking submitted a one-time (special) voluntary declaration and paid the agreed amount of the fee for a one-time (special) voluntary declaration in accordance with subsection 9⁴ "Peculiarities of application of one-time (special) voluntary declaration of assets of individuals" of Section XX "Transitional Provisions" of the Tax Code of Ukraine, and:

{Paragraph three of part two of Article 52 as revised under Law No. 1539-IX as of 15 June 2021}

such a violation did not result in a significant restriction of competition or monopolization of the relevant market, a fine in the amount of 1,200 tax-free minimum incomes is imposed;

{Paragraph of part two of Article 52 as revised under Law No. 1539-IX as of 15 June 2021}

such violation has resulted in a significant restriction of competition or monopolization of the relevant market, shall entail civil, administrative, criminal or other liability in accordance with the law.

{Paragraph of part two of Article 52 as revised under Law No. 1539-IX as of 15 June 2021}

At the same time, in case of a violation that did not result in a significant restriction of competition or monopolization of the relevant market, such an undertaking (if it is an individual) or an individual exercising control over such an undertaking is obliged to submit a relevant application in accordance with Article 26 of this Law between 1 October 2021 and 1 October 2022. In case of failure to perform the said actions within the established time limits, a fine in the amount stipulated by the first sentence of clause three of this part shall be imposed on the undertaking or an individual exercising control over such undertaking;

{Paragraph of part two of Article 52 as revised under Law No. 1539-IX as of 15 June 2021}

clauses 9, 13-18, 21 of Article 50 of this Law, fines are imposed in the amount of up to one percent of the undertaking's income (revenue) from the sale of products (goods, works, services) for the last reporting year preceding the year in which the fine is imposed.

{Paragraph of part two of Article 52 as amended by Laws No. 3567-VI as of 05 July 2011, No. 3295-IX as of 09 August 2023}

3. The income (revenue) of an undertaking from the sale of products (goods, works, services) shall be defined as the total value of income (revenue) from the sale of products (goods, works, services) of all legal entities and individuals included in the group recognized as an undertaking in accordance with Article 1 of this Law, and on which a fine is imposed in accordance with part four of this Article.

{Part three of Article 52 as amended by Law No. 3295-IX as of 09 August 2023}

4. If several legal entities and/or natural persons - undertakings, which are part of a group recognized as an undertaking, have committed acts (actions, inaction) that led to a violation of the legislation on the protection of economic competition by the specified undertaking, and/or have rights without which the violation would be impossible, and/or have received or may receive advantages in competition or other benefits (in particular, the ability to influence the activities of other legal and/or natural persons - undertakings, receive a part of their profit), the fine is imposed on the undertaking in the person of these legal and/or natural persons.

The obligation to pay the fine imposed on these legal and/or natural persons - undertakings, is joint and several.

{Part four of Article 52 as revised under Law No. 3295-IX as of 09 August 2023}

5. If there is no income (revenue) or the defendant at the request of the bodies of the Antimonopoly Committee of Ukraine, head of its territorial branch did not provide the amount of income (revenue), the fine provided for in clause two of part two of this Article shall be imposed in the amount of up to twenty thousand tax-free minimum incomes; a fine provided for in clause three of part two of this Article — in the amount of up to ten thousand tax-free minimum incomes; a fine

provided for in clause seven of part two of this Article — in the amount of up to two thousand tax-free minimum incomes.

{Paragraph one of part five of Article 52 as amended by Law No. 3295-IX as of 09 August 2023}

If necessary, the amount of income (revenue) may be determined by the Antimonopoly Committee of Ukraine on the basis of administrative information obtained from other sources.

{Part five of Article 52 is supplemented with a paragraph according to Law No. 2596-IV as of 31 May 2005}

6. Decisions to impose fines in the amount of more than four thousand tax-free minimum incomes shall be made exclusively by the Antimonopoly Committee of Ukraine and the administrative board of the Antimonopoly Committee of Ukraine at their meetings.

{Part six of Article 52 as amended by Law No. 3567-VI as of 05 July 2011}

7. If the undertaking has been operating for less than one year, the amount of the fine shall be calculated from the undertaking's income (revenue) for the entire period before the decision to impose the fine was made.

8. The procedure for determining the amount of the fine imposed for violation of the legislation on the protection of economic competition is established by the regulatory legal act of the Antimonopoly Committee of Ukraine.

{Article 52 is supplemented with part eight according to Law No. 3295-IX as of 09 August 2023}

Article 52-1. Grounds and procedure for exemption from liability of participants in anticompetitive concerted actions

1. Persons who have committed anticompetitive concerted actions, provided for in Article 6 of this Law, may be exempted from liability in whole or in part in the manner established by this Law and regulatory legal acts of the Antimonopoly Committee of Ukraine.

2. Exemption from liability may be applied to a person who has committed anticompetitive concerted actions and submitted an application for exemption from liability to the Antimonopoly Committee of Ukraine before sending preliminary conclusions in the case.

3. A person who committed anticompetitive concerted actions and submitted an application for exemption from liability to the Antimonopoly Committee of Ukraine earlier than other participants in these actions shall be fully exempted from liability for committing such anticompetitive concerted actions provided for in Article 52 of this Law, if he/she:

1) disclosed the following anticompetitive concerted actions to the Antimonopoly Committee of Ukraine;

2) ceased its participation in anticompetitive concerted actions no later than the day of submission of the application for exemption from liability, except in the case when such participation in anticompetitive actions is necessary to ensure the integrity of the case;

3) cooperated with the bodies of the Antimonopoly Committee of Ukraine on the basis of, in particular, efficiency, timeliness of information provision, completeness and reliability of the information provided, and duration of cooperation;

4) provided evidence not available to the Antimonopoly Committee of Ukraine, which:

are sufficient to issue an order to initiate proceedings - if, on the day of submission of the application for exemption from liability, an order to initiate proceedings on the grounds of the same violation has not been adopted;

are essential for making a decision in the case - if the order to initiate the case consideration has been issued, but the Antimonopoly Committee of Ukraine does not have enough evidence to complete the investigation and make a decision in the case.

4. For other participants of anticompetitive concerted actions who cannot be fully exempted from liability due to the fact that such exemption is received by another participant of the relevant anticompetitive concerted actions who previously submitted an application for exemption from liability, but who wish to receive a partial exemption from liability, the amount of the fine is reduced by the decision of the permanent or temporary administrative board of the Antimonopoly Committee of Ukraine and the Antimonopoly Committee of Ukraine. The decision to reduce the amount of the fine is made if the relevant persons voluntarily provided evidence of anticompetitive concerted actions that are essential for making a decision in the case and are not available to the Antimonopoly Committee of Ukraine, subject to compliance with the requirements set forth in clauses 1-3 of part three of this Article. In such a case, the amount of the fine is reduced compared to the amount of the fine determined upon adoption of the decision provided for by clauses two and seven of part one of Article 48 of this Law, depending on the priority of the application:

for the first applicant - up to 50 percent;

for the second applicant - up to 30 percent;

for other applicants - up to 20 percent.

5. A participant of anticompetitive concerted actions may withdraw its application for exemption from liability and the information provided.

The withdrawal of the application for exemption from liability does not prevent the Antimonopoly Committee of Ukraine from exercising the powers provided for by the legislation on the protection of economic competition to obtain relevant information.

6. If the applicant provides sufficient evidence, which the Antimonopoly Committee of Ukraine uses to prove additional facts, which leads to an increase in the amount of the fine compared to the amount of the fine that should have been imposed on the participants of the violation in the absence of such evidence, the body of the Antimonopoly Committee of Ukraine when determining the amount of the fine for such an applicant shall not take into account circumstances that were not known before providing the specified evidence.

7. Exemption from liability cannot be applied to an applicant which:

1) does not meet the requirements stipulated in part three of this Article;

2) destroyed, falsified or concealed information or evidence related to the declared anticompetitive concerted actions, before submitting an application for exemption from liability to the Antimonopoly Committee of Ukraine;

3) disclosed information about its intention to submit an application for exemption from liability before submitting such an application.

The applicant cannot be fully exempted from liability if he/she forced other participants of anticompetitive concerted actions to commit such actions or to continue them.

8. A person who committed anticompetitive concerted actions and submitted an application for exemption from liability is obliged to cooperate with the bodies of the Antimonopoly Committee of Ukraine from the date of submission of such application until the day of decision in the case, in particular, by:

1) providing all the necessary information and other evidence regarding the alleged anticompetitive concerted actions, which are at its disposal or available to it;

2) providing the bodies of the Antimonopoly Committee of Ukraine with the opportunity to receive explanations from the officers and officials employed by the applicant as of the day of receipt of the explanations, and also, if possible, from officers and officials who worked for the applicant before;

3) non-destruction, non-falsification and non-concealment of information or evidence relating to the declared anticompetitive concerted actions;

4) non-disclosure of information about one's intention to submit an application for exemption from liability, about the content of such an application and about cooperation with the bodies of the Antimonopoly Committee of Ukraine before making a decision in the case, except for cases agreed with the body of the Antimonopoly Committee of Ukraine.

9. The body of the Antimonopoly Committee of Ukraine, on the basis of a reasoned petition in the interests of consideration of a case on violation of the legislation on the protection of economic competition, ensures the confidentiality of information about the person who submitted an application for exemption from liability, until a decision is made in the case.

{The Law is supplemented with Article 52¹ in accordance with Law No. 3295-IX as of 09 August 2023}

Article 53. Compulsory division

1. If an undertaking abuses its monopoly (dominant) position in the market, the bodies of the Antimonopoly Committee of Ukraine have the right to decide on the forced division of the undertaking holding the monopoly (dominant) position.

2. Compulsory division shall not be applied in the case of:

impossibility of organizational or territorial separation of enterprises, structural units or structural subdivisions;

close technological connection of enterprises, structural subdivisions or structural units (if the volume of products consumed by the undertaking exceeds thirty percent of the gross output of the enterprise, structural subdivision or structural unit).

3. The decision of the bodies of the Antimonopoly Committee of Ukraine on the compulsory division of an undertaking shall be enforced within the established period, which may not be less than six months.

4. The reorganization of an undertaking subject to compulsory division shall be carried out at its discretion, provided that the monopoly (dominant) position of this undertaking in the market is eliminated.

Article 54. Administrative liability of officials and other employees of undertakings, authorities, local self-government bodies, administrative and economic management and control bodies.

{Part one of Article 54 is excluded on the basis of Law No. 2596-IV as of 31 May 2005}

2. For offenses provided for in clauses 4, 13-16 of Article 50 of this Law, officials of authorities, local self-government bodies, administrative and economic management and control bodies shall bear administrative liability in accordance with the law.

3. Employees of undertakings and associations/groups shall be administratively liable for the offense provided for in clause 16 of Article 50 of this Law in accordance with the law.

{Article 54 is supplemented with part three according to Law No. 2596-IV as of 31 May 2005}

Article 55. Compensation for damage

1. Persons who have suffered damage as a result of violation of the legislation on the protection of economic competition may apply to the commercial court for compensation.

2. The damage caused by violations of the legislation on the protection of economic competition provided for in clauses 1, 2, 5, 10, 12, 18, 19 of Article 50 of this Law shall be compensated by the person who committed the violation in the double amount of the damage.

3. Damage caused by an undertaking that is exempt from liability in accordance with part three of Article 52-1 of this Law shall be compensated exclusively:

to its direct buyers or suppliers;

to other persons who have suffered damage, only if compensation for damage cannot be obtained from other undertakings - defendants in the same case on violation of the legislation on the protection of economic competition.

{Article 55 is supplemented with part three according to Law No. 3295-IX as of 09 August 2023}

SECTION IX PROCEDURE FOR EXECUTING, CHECKING, REVIEWING, APPEALING DECISIONS, ORDERS, ESTIMATING TIMES AND EXCHANGE OF INFORMATION

Article 56. Procedure for executing decisions and orders of the Antimonopoly Committee of Ukraine, heads of territorial branches of the Antimonopoly Committee of Ukraine

1. The decision (excerpt from it with the exception of restricted information, as well as information determined by the relevant State Commissioner of the Antimonopoly Committee of Ukraine, head of the territorial branch of the Antimonopoly Committee of Ukraine, the disclosure of which may harm the interests of other persons involved in the case), order of the bodies of the Antimonopoly Committee of Ukraine, heads of its territorial branches shall be provided for execution by sending or delivering against receipt or notifying in another way.

If it is not possible to deliver a decision or order, in particular, due to the following reasons:

{Paragraph two of part one of Article 56 as amended by Law No. 2596-IV as of 31 May 2005}

absence of an individual at the last known place of residence (place of registration);

{Paragraph three of part one of Article 56 as amended by Law No. 1276-VI as of 16 April 2009}

absence of officials or authorized representatives of the undertaking, administrative and economic management and control body at the relevant legal address

the decision or order of the Antimonopoly Committee of Ukraine is deemed to have been served on the defendant ten days after the date of publication of the information on the decision or order in the official printed media (the newspaper of the Verkhovna Rada of Ukraine "Holos Ukrainy", the newspaper of the Cabinet of Ministers of Ukraine "Uriadovyi Kurier", "Official Gazette of Ukraine", printed publications of the relevant regional council at the last known place of residence or place of registration, legal address of the defendant).

{Paragraph five of part one of Article 56 as amended by the Laws of Ukraine No. 2596-IV as of 31 May 2005, No. 1276-VI as of 16 April 2009}

2. Decisions and orders of the bodies of the Antimonopoly Committee of Ukraine, heads of its territorial branches are binding. Decisions and orders of the body of the Antimonopoly Committee of Ukraine shall come into force from the day of their adoption.

3. A person on whom a fine has been imposed by a decision of the Antimonopoly Committee of Ukraine shall pay it within two months from the date of receipt of the decision on the imposition of a fine. Obligations established in the decision of the body of the Antimonopoly Committee of Ukraine, provided for in Article 48 of this Law, shall be fulfilled within two months from the date of receipt of the decision of the body of the Antimonopoly Committee of Ukraine, unless otherwise provided by law or this decision.

The terms provided for in clause one of this part are suspended during the court's consideration of the case on appeal of the decision of the body of the Antimonopoly Committee of Ukraine in the case of violation of the legislation on the protection of economic competition, as well as during the inspection or review of the decision in the case of violation of the legislation on the protection of economic competition by the body Antimonopoly Committee of Ukraine.

The accrual of the penalty shall be terminated from the date of payment of the fine imposed by the decision of the body of the Antimonopoly Committee of Ukraine.

{Part three of Article 56 as amended by Law No. 2596-IV as of 31 May 2005; as amended by Law No. 3295-IX as of 09 August 2023}

4. If a fine is imposed on an undertaking in accordance with part four of Article 52, the fine may be paid in full or in part by any legal entity or individual that is a part of the undertaking and on which the fine is imposed. Payment of a fine in full by one legal entity or individual or by several persons releases other persons for whom the fine was paid from paying the fine.

5. For each day of delay in payment of the fine, a penalty of one and a half percent of the amount of the fine shall be charged. The amount of the penalty may not exceed the amount of the fine imposed by the relevant decision of the Antimonopoly Committee of Ukraine.

The accrual of penalties ceases from the date the commercial court adopts a decision to collect the relevant fine.

The accrual of penalties is suspended for the duration of the consideration or review by the commercial court:

{Paragraph three of part five of Article 56 as revised under Law No. 762-IV as of 15 May 2003}

cases on invalidation of the decision of the Antimonopoly Committee of Ukraine to impose a fine;

the relevant decision (resolution) of the commercial court.

{Paragraph five of part five of Article 56 as amended by Law No. 762-IV as of 15 May 2003}

{Paragraph six of part five of Article 56 is excluded on the basis of Law No. 762-IV as of 15 May 2003}

The accrual of penalties is suspended while the Antimonopoly Committee of Ukraine considers the application of the person on whom the fine was imposed to review or revise the decision in the case of violation of the legislation on the protection of economic competition.

{Part five of Article 56 is supplemented with a paragraph according to Law No. 2596-IV as of 31 May 2005}

6. At the request of the person on whom the fine is imposed, the bodies of the Antimonopoly Committee of Ukraine by their decision may postpone or install the payment of the fine imposed by them (if such person gives written consent to the fact of committing a violation and the amount of the imposed fine), but for no more than 12 months.

{Part six of Article 56 as amended by Law No. 3295-IX as of 09 August 2023}

7. In case of non-payment of the fine, the bodies of the Antimonopoly Committee of Ukraine shall collect the fine in court.

{Part seven of Article 56 as revised under Law No. 3295-IX as of 09 August 2023}

8. If, within the period established by the first clause of part three of this article, the decision of the body of the Antimonopoly Committee of Ukraine is not implemented, the Chair of the Antimonopoly Committee of Ukraine, the Head of the territorial branch of the Antimonopoly Committee of Ukraine shall issue an order to enforce the decision of the body of the Antimonopoly Committee of Ukraine, adopted as a result of the consideration of the case on violation of the legislation on the protection of economic competition, including the collection of a fine.

9. The order of the Chair of the Antimonopoly Committee of Ukraine, the Head of the territorial branch of the Antimonopoly Committee of Ukraine on the enforcement of the decision of the body of the Antimonopoly Committee of Ukraine, adopted as a result of the consideration of the case on violation of the legislation on the protection of economic competition, including the collection of a fine, is an executive document presented to bodies of the state executive service for enforcement in the manner specified by law.

The orders specified in the first clause of this part must meet the requirements for an executive document established by law.

10. Payment of a fine does not release the undertaking from the obligation to stop violating the legislation on the protection of economic competition, as well as from fulfilling other obligations established by the decision of the Antimonopoly Committee of Ukraine.

11. If the decision of the body of the Antimonopoly Committee of Ukraine is made in relation to several defendants or if the execution of such a decision must be carried out in different places, or if such a decision provides for the performance of several actions, the Chair of the Antimonopoly Committee of Ukraine, the head of the territorial branch of the Antimonopoly Committee of Ukraine issues several orders, in each of which one defendant and one collector are indicated, and it is also determined in which part the decision of the body of the Antimonopoly Committee of Ukraine must be implemented, or it is noted that the obligation or right of collection is joint and several.

12. The Chair of the Antimonopoly Committee of Ukraine, the head of the territorial branch of the Antimonopoly Committee of Ukraine, who issued the order provided for in part nine of this article,

may, on his own initiative or at the request of the defendant, correct a mistake made during the execution or issuance of the order. On the correction of an error made, the Chair of the Antimonopoly Committee of Ukraine, the head of the territorial branch of the Antimonopoly Committee of Ukraine introduces changes to the order on the enforcement of the decision of the body of the Antimonopoly Committee of Ukraine, adopted as a result of the review of the case on the violation of the legislation on the protection of economic competition, including the collection of a fine, which is an integral part of the executive document.

{Article 56 is supplemented with a new part according to Law No. 3295-IX as of 09 August 2023}

13. Within five days from the date of payment of the fine and penalty, undertaking is obliged to send, in accordance with the Antimonopoly Committee of Ukraine or its territorial branch, documents confirming the payment of the fine and penalty.

{Article 56 is supplemented with a part according to Law No. 2596-IV as of 31 May 2005; as revised under Law No. 3295-IX as of 09 August 2023}

14. The amounts of fines and penalties collected shall be credited to the state budget.

{The effect of paragraph of Article 56 was suspended for 2003 under Law No. 380-IV as of 26 December 2002; the effect of part of Article 56 was suspended for 2004 under Law No. 1344-IV as of 27 November 2003; the effect of part of Article 56 was suspended for 2005 under Law No. 2285-IV as of 23 December 2004; as revised under Law No. 2505-IV as of 25 March 2005}

15. Decisions of the relevant bodies and officials of the Antimonopoly Committee of Ukraine on imposing administrative penalties on officials and other employees of undertakings, authorities, local self-government bodies, administrative and economic management and control bodies shall be enforced in accordance with the procedure established by law.

16. If recovery from a person of a fine imposed by a body of the Antimonopoly Committee of Ukraine is impossible due to the termination of such a person, bankruptcy or insufficiency of property due to the fault of its founders (participants, shareholders), who have the right to issue binding instructions for the defendant, in this case, the successors of such persons, founders (participants, shareholders), who are part of a group that is recognized as an undertaking in accordance with Article 1 of this Law and which at the time of committing the offense included such a person on whom a fine was imposed by the Antimonopoly Committee of Ukraine, jointly and severally bear subsidiary responsibility for paying the fine imposed by the Antimonopoly Committee of Ukraine.

{Article 56 is supplemented with part sixteen according to Law No. 3295-IX as of 09 August 2023}

Article 57. Review of decisions in cases of violation of the legislation on the protection of economic competition and in applications, cases of concerted actions

1. Decisions made by the administrative board of the territorial branch of the Antimonopoly Committee of Ukraine, the State Commissioner of the Antimonopoly Committee of Ukraine, the administrative board of the Antimonopoly Committee of Ukraine in cases of violation of the legislation on the protection of economic competition, in applications, cases of concerted actions may be reviewed at the request of persons involved in the case or on their own initiative in accordance with the procedure established by the Antimonopoly Committee of Ukraine.

2. An application for review of the decision may be filed with the Antimonopoly Committee of Ukraine within two months from the date of receipt of the decision. This period cannot be extended.

3. Decisions of the administrative board of the territorial branch of the Antimonopoly Committee of Ukraine shall be reviewed by the administrative board of the Antimonopoly Committee of Ukraine or the Antimonopoly Committee of Ukraine, decisions of the State Commissioner of the Antimonopoly Committee of Ukraine, administrative board of the Antimonopoly Committee of Ukraine — by the Antimonopoly Committee of Ukraine.

4. The bodies of the Antimonopoly Committee of Ukraine, which carry out the verification of the decision, may suspend the execution of the decision until the end of its verification, which shall be notified in writing to the persons involved in the case.

5. Based on the results of the review of the decision, the bodies of the Antimonopoly Committee of Ukraine shall have the right to:

uphold the decision;

amend the decision;

cancel the decision in part and send the case for a new trial in this part;

cancel the decision and adopt a new decision or refer the case for a review or terminate the case consideration.

Article 58. Review of decisions in cases of violation of the legislation on the protection of economic competition and in applications, cases of concerted actions, concentration

1. The bodies of the Antimonopoly Committee of Ukraine on their own initiative or upon applications of persons may review the decisions taken by them in cases of violation of the legislation on the protection of economic competition and in applications, cases of concerted actions, concentration, in case of:

if the material circumstances were not and could not have been known to the bodies of the Antimonopoly Committee of Ukraine, which resulted in the adoption of an illegal or unreasonable decision;

if the decision was made on the basis of inaccurate information, which led to an illegal or unreasonable decision;

failure of the participants of concerted actions, concentration to fulfill the requirements and obligations that were the basis for the decision of the Antimonopoly Committee of Ukraine on concerted actions, concentration in accordance with part two of Article 31 of this Law;

if the circumstances underlying the decision to grant a clearance for concerted actions or concentration of undertakings no longer exist;

non-fulfillment by undertaking of the terms of the settlement agreement regarding termination of the violation and elimination of the causes of its occurrence, elimination of the consequences of the violation;

if the settlement agreement violates public order;

{Part one of Article 58 is supplemented with a new paragraph according to Law No. 3295-IX as of 09 August 2023}

other grounds provided for by the laws of Ukraine.

The bodies of the Antimonopoly Committee of Ukraine that made the decision may suspend the execution of the decision until the end of its review, which shall be notified in writing to the persons involved in the case.

2. Revision of decisions in cases of violation of the legislation on the protection of economic competition, in applications, cases of concerted actions, concentration is allowed in the cases provided for:

by the second, third and sixth unnumbered paragraphs of the first part of this article - within five years from the date of adoption of the relevant decision;

unnumbered paragraphs four and five of the first part of this article - during the period of validity of the decision;

unnumbered paragraph eight of the first part of this article - within three years from the date of adoption of the relevant decision, unless otherwise established by law.

Based on the results of the review of the decision on the grounds provided for in the sixth unnumbered paragraph of the first part of this article, the body of the Antimonopoly Committee of Ukraine changes its decision regarding the amount of the fine.

{Part two of Article 58 as revised under Law No. 3295-IX as of 09 August 2023}

3. Based on the results of the review, the bodies of the Antimonopoly Committee of Ukraine may:

uphold the decision;

amend the decision;

cancel the decision;

adopt a new decision as provided for in Articles 31 and 48 of this Law, part one of Article 30 of Law of Ukraine "On Protection Against Unfair Competition".

4. If, based on the results of the review of decisions, the Antimonopoly Committee of Ukraine decides to prohibit the concentration, the state registration of the undertaking created as a result of the concentration shall be canceled in court at the request of the Antimonopoly Committee of Ukraine.

Article 59. Grounds for changing, canceling, or invalidating decisions of the Antimonopoly Committee of Ukraine

1. Grounds for changing, canceling, or invalidating decisions of the Antimonopoly Committee of Ukraine shall include:

incomplete clarification of the circumstances relevant to the case;

failure to prove the circumstances that are relevant to the case and which are recognized as established;

inconsistency of the conclusions set forth in the decision with the circumstances of the case;

prohibition of concentration, concerted actions in accordance with the Law of Ukraine "On Sanctions";

{Part one of Article 59 is supplemented with a new paragraph according to Law No. 2195-VIII as of 09 November 2017; as revised under Law No. 3295-IX as of 09 August 2023}

violation or misapplication of substantive or procedural law.

2. Violation or misapplication of procedural law may be grounds for modification, reversal or invalidation of a decision only if such violation resulted in an incorrect decision.

Article 60. Appealing Against Decisions of Bodies of the Antimonopoly Committee of Ukraine

1. The applicant, the defendant, or a third party have the right to fully or partially appeal the decision, order of the body of the Antimonopoly Committee of Ukraine, provided for in Articles 36 and 48 of this Law, to the commercial court within two months from the date of receipt of the decision or order. The specified term is not subject to renewal.

2. Decisions and orders of the Antimonopoly Committee of Ukraine, the administrative board of the Antimonopoly Committee of Ukraine, the state commissioner of the Antimonopoly Committee of Ukraine, provided for in the first part of this article, are appealed to the commercial court of the city of Kyiv. Decisions of the administrative board of the territorial branch of the Antimonopoly Committee of Ukraine are appealed to the commercial courts of the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol.

{Part two of Article 60 as amended by Law No. 762-IV as of 15 May 2003; as amended by Law No. 3295-IX as of 09 August 2023}

3. Acceptance by the commercial court of the application for invalidation of the decision of the body of the Antimonopoly Committee of Ukraine for consideration shall not suspend its execution, except in cases provided for in part four of this Article.

4. Initiation by a commercial court of proceedings on invalidation of a decision of the Antimonopoly Committee of Ukraine:

in accordance with part one of Article 48 of this Law, part one of Article 30 of the Law of Ukraine "On Protection Against Unfair Competition";

based on the results of an inspection in accordance with part five of Article 57 of this Law;

based on the results of the review in accordance with part three of Article 58 of this Law,

as well as the review of the relevant decision (resolution) of the commercial court at the request of a party shall suspend the execution of the said decision of the Antimonopoly Committee of Ukraine for the duration of the consideration of this case or the review of the relevant decision (resolution) of the commercial court, unless otherwise determined by the Antimonopoly Committee of Ukraine in accordance with part three of Article 48 of this Law or the commercial court.

{Paragraph five of part four of Article 60 as revised under Law No. 762-IV as of 15 May 2003}

5. Notwithstanding the provisions of part four of this Article, if there are sufficient grounds, the commercial court may suspend the decision of the body of the Antimonopoly Committee of Ukraine.

Article 61. Notification of court cases

1. Upon request of the Antimonopoly Committee of Ukraine, the commercial court shall notify the Antimonopoly Committee of Ukraine of court cases resolved on the basis of the legislation on the protection of economic competition.

2. The State Commissioner of the Antimonopoly Committee of Ukraine, the head of the territorial branch of the Antimonopoly Committee of Ukraine or employees of the Antimonopoly Committee of Ukraine, its territorial branches authorized by them shall have the right to familiarize themselves with the materials of these cases and receive copies of documents. The Antimonopoly Committee of Ukraine and its territorial branches have the right to intervene in a case as third parties who do not

assert independent claims on the subject matter of the dispute, if the decision may affect their rights and obligations in the exercise of state control over the protection of economic competition.

Article 62. Definition and calculation of terms in the legislation on the protection of economic competition

1. The terms within which the relevant actions shall be taken, in particular, when considering applications for clearances for concerted actions, concentration of undertakings, when considering cases of violation of the legislation on the protection of economic competition, etc., shall be established by the legislation on the protection of economic competition, as well as by the bodies of the Antimonopoly Committee of Ukraine, the head of the territorial branch of the Antimonopoly Committee of Ukraine. These terms are determined by a calendar date, an indication of an event that must imminently occur, or a period of time.

2. The term, which is calculated in years, months, or days, shall begin on the day following the calendar date or event that determines its beginning.

The term, which is calculated in years, expires on the corresponding month and day of the last year of the term.

A term calculated in months expires on the corresponding day of the last month of the term. If the end of a term calculated in months falls on a month that does not have a corresponding number, the term expires on the last day of that month.

If the last day falls on a non-business day, the first business day following it shall be deemed the expiration date.

The last day of the deadline lasts up to 24 hours, but if an action had to be taken within this period at the Antimonopoly Committee of Ukraine or its territorial branch, the deadline expires at the end of the business day.

3. The deadline is not considered missed if the required documents are submitted to the post office before its expiration. If the documents are not received by the Antimonopoly Committee of Ukraine or its territorial branch, the relevant person shall provide appropriate evidence to confirm that such documents were sent by mail.

{Part three of Article 62 as amended by Law No. 3567-VI as of 05 July 2011}

Article 63. Information exchange

1. Undertakings connected by relations of control in accordance with Article 1 of this Law shall be obliged to ensure exchange of information between themselves, including in cases provided for in part two of Article 22 of this Law, and take other measures in such a way and to such an extent as to ensure prevention of violations of the legislation on the protection of economic competition.

2. Failure of undertakings to comply with the requirements of part one of this Article shall not relieve other undertakings, to whom information must be provided or which must have taken other measures, from liability.

Section X. FINAL PROVISIONS

1. This Law shall enter into force one year after its publication, except for clauses 2 and 3 of this section, which shall enter into force on the date of publication.

2. Prior to the entry into force of this Law, undertakings shall apply to the Antimonopoly Committee of Ukraine for a clearance for concerted actions, if such actions will take place on the day of entry into force of this Law and may be permitted in accordance with Article 10 of this Law.

3. Concerted actions in respect of which an application was filed in accordance with clause 2 of this section shall be deemed permitted, unless within one year from the date of entry into force of this Law the bodies of the Antimonopoly Committee of Ukraine adopt a decision to prohibit these concerted actions.

4. Article 44 of this Law regarding the entry into a dwelling or other property of a person, inspection or search thereof shall enter into force on the date of entry into force of the law providing for the procedure for a commercial court to make a decision on entry into a dwelling or other property of a person, inspection or search thereof.

4¹. During the term of validity of the Law of Ukraine "On Financial Restructuring", the provisions of subclause "a" of clause 2 of part two of Article 22 of this Law shall not apply to cases of purchase, acquisition of ownership of relevant assets in any other way, receipt of management, lease, leasing, concession, or acquisition of the right to use relevant assets in any other way, if such actions are provided for in the restructuring plan approved in accordance with the Law of Ukraine "On Financial Restructuring".

{Chapter X "Final Provisions" is supplemented with clause 4¹ in accordance with Law No. 112-IX as of 19 September 2019}

4². Acquisition without obtaining a clearance for concentration of actions to acquire (in order to repay a debt to a bank or other financial institution for financial services rendered) ownership of a single property complex and/or shares (stocks, stakes) of an undertaking that is the subject of ensuring the proper fulfillment of an obligation to a bank or other financial institution (provided that they will be alienated to undertakings not related by relations of control to this bank or this financial institution within two years from the date of such acquisition and/or that the undertaking whose shares (stocks, units) are acquired is not a bank or other financial institution, and provided that such actions are provided for in the restructuring plan approved in accordance with the Law of Ukraine "On Financial Restructuring"), is not a violation of the legislation on the protection of economic competition and does not entail liability under Article 52 of this Law.

{Chapter X "Final Provisions" is supplemented with clause 4² in accordance with Law No. 112-IX as of 19 September 2019}

4³. The failure to obtain a merger clearance for the purchase, acquisition of ownership of relevant assets in any other way, obtaining management, lease, leasing, concession, or other right to use relevant assets, if such actions are provided for in the restructuring plan approved in accordance with the Law of Ukraine "On Financial Restructuring", shall not constitute a violation of the legislation on the protection of economic competition and shall not entail liability under Article 52 of this Law.

{Chapter X "Final Provisions" is supplemented with clause 4³ in accordance with Law No. 112-IX as of 19 September 2019}

4⁴. The provisions of part two of Article 22 of this Law shall not apply to the procedure of reorganization of state unitary enterprises, including state-owned enterprises that are participants of Ukroboronprom State Concern, the establishment of a joint-stock company by transformation of Ukroboronprom State Concern, establishment of undertakings in the defense industry and transfer of shares of such undertakings in the defense industry to the authorized capital of the said joint-stock company or other undertaking in the defense-industrial complex in accordance with the Law of

Ukraine "On Peculiarities of Reforming Enterprises of the State-Owned Defense-Industrial Complex".

{Chapter X "Final Provisions" is supplemented with clause 4⁴ in accordance with Law No. 1630-IX as of 13 July 2021}

4⁵. During the period of martial law, the provisions of part two of Article 22 of this Law shall not apply to the procedure for enterprises, institutions, organizations belonging to the sphere of management of ministries, other central executive authorities, undertakings, 50 percent or more of the shares (stocks, units) in the authorized capital of which belong to the state, or their controlled entities, to acquire direct or indirect control over one or more undertakings or parts of undertakings that carry out activities in the sphere of energy and housing and communal services, if the purpose of acquiring control is to prevent the occurrence or elimination of the consequences of emergency situations or failures in heat, energy, electricity, water supply or drainage, or the supply of natural gas.

{Chapter X "Final Provisions" is supplemented with clauses 4⁵ according to Law No. 3137-IX as of 30 May 2023}

4⁶. The provisions of part two of Article 22 of this Law shall not apply to the procedure for the compulsory seizure in Ukraine of objects of property rights of the Russian Federation and its residents, which is carried out in accordance with the Law of Ukraine "On Basic Principles of Compulsory Seizure in Ukraine of Objects of Property Rights of the Russian Federation and its Residents".

{Chapter X "Final Provisions" is supplemented with clauses 4⁶ according to Law No. 3137-IX as of 30 May 2023}

5. The Cabinet of Ministers of Ukraine shall be instructed, within three months after the Law of Ukraine "On the Protection of Economic Competition" comes into force:

to submit proposals to the Verkhovna Rada of Ukraine to bring legislative acts of Ukraine in line with this Law;

to bring their regulatory acts in line with this Law;

to ensure that ministries and other central executive authorities of Ukraine review and cancel their regulatory acts that contradict this Law;

to develop the regulatory acts provided for by this Law.

6. The following shall be recognized as lapsed:

The Law of Ukraine "On Restriction of Monopolism and Prevention of Unfair Competition in Business Activities" (The Official Bulletin of the Verkhovna Rada of Ukraine, 1992, No. 21, Article 296; 1993, No. 27, Article 291; 1995, No. 28, Article 202; 1998, No. 34, Article 229);

clause 12 of the Law of Ukraine "On Amendments and Supplements to Certain Legislative Acts of Ukraine on Protection of Intellectual Property" (The Official Bulletin of the Verkhovna Rada of Ukraine, 1995, No. 13, Article 85);

Clause 3 of section I of the Law of Ukraine "On Amendments to Certain Laws of Ukraine Providing for Direct Debiting (Recovery) of Funds from Accounts of Legal Entities and Individuals-Undertakings in Banks" (The Official Bulletin of the Verkhovna Rada of Ukraine, 1998, No. 10, Article 36).

President of Ukraine

L. KUCHMA

City of Kyiv
11 January 2001
No. 2210-III



On the Protection of Economic Competition
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- **Holos Ukrainy** as of 27 February 2001 — No. 37
- **The Official Gazette of Ukraine** as of 02 March 2001 — 2001, No. 7, Article 51, Article 260, code of act 17835/2001
- **Uriadovyi Kurier** as of 21 March 2001 — No. 50
- **The Official Bulletin of Verkhovna Rada of Ukraine** as of 23 March 2001 — 2001, No. 12, Article