

APPROVED

By the Order of the of the Antimonopoly
Committee of Ukraine as of April 19, 1994 No. 5
(As amended by the Order of the of the
Antimonopoly Committee of Ukraine
No. 169-r as of June 29, 1998)

PROCEDURE

**for consideration of applications and cases on violation of legislation on
protection of economic competition by the Antimonopoly Committee of
Ukraine and its Regional Offices**

I. General provisions

1. This Procedure defines the procedure for consideration of applications, cases on violation of legislation on protection of economic competition, including protection against unfair competition (hereinafter – violation of legislation on protection of economic competition, violation), holding hearings in cases by the bodies of the Antimonopoly Committee of Ukraine (hereinafter – AMCU's bodies) in accordance with the Laws of Ukraine “On Protection of Economic Competition”, “On Protection against Unfair Competition”, “On the Antimonopoly Committee of Ukraine” and establishes the procedure for reviewing and revising decisions of the Committee.
2. Consideration of cases shall be carried out on the basis of equality of the parties before the law and bodies of the Antimonopoly Committee of Ukraine (hereinafter – the AMCU) that consider cases.
3. The powers of officials provided for by these Rules may be exercised by officials who replace (substitute) them in accordance with the established procedure.

II. Bodies of the AMCU that consider cases, jurisdiction of cases

1. Cases of violation of legislation on protection of economic competition are reviewed by the AMCU's bodies within their competence:
 - By the AMCU;
 - The Standing Administrative Board of the AMCU;

- The Temporary Administrative Board of the AMCU;
- State Commissioner of the AMCU;
- The Administrative Board of the AMCU's Regional Office.

2. The Administrative board of the Regional Office of the AMCU is responsible for cases of violations in the form of:

abuse of a monopoly (dominant) position, anticompetitive concerted actions, if the consequences of the violation occur in the regional market;

unfair competition if the applicant and the respondent are located in the same region;

anticompetitive actions of governmental authorities, local self-government bodies, administrative and economic management and control bodies, except for those that subordinate to the AMCU's Standing Administrative Board;

delegation of powers of governmental authorities or local self-government bodies, except for those subordinated to the Standing Administrative Board of the AMCU;

inducement to violations, creation of conditions for committing such violations or their legitimization by the authorities, local self-government bodies, administrative and economic management and control bodies, except for those that subordinate to the Standing Administrative Board of the AMCU;

restrictive and discriminatory activities of undertakings and associations provided for in parts one and two of Article 18, Articles 19, 20 and 21 of the Law of Ukraine “On Protection of Economic Competition”, except for those that subordinate to the State Commissioner of the AMCU;

failure to submit, or incomplete submission of information to the regional office within the time limits established by the head of the regional office, the Administrative Board of the regional office of the AMCU or regulatory legal acts, or submission of inaccurate information to the regional office;

creating obstacles for employees of the AMCU's regional office to conduct inspections, examinations, seize or arrest property, documents, objects or other data carriers;

providing recommendations to undertakings, associations, authorities, local self-government bodies, administrative and economic management and control bodies that encourage or facilitate violations of the legislation on protection of economic competition, except for those that subordinate to the Permanent Administrative Board of the AMCU.

unsealing (opening) premises, electronic communications systems, other possessions or places of storage of information sealed (placed under seal) by employees of the regional office of the AMCU.

Cases under the jurisdiction of the Administrative Board of a regional office of the AMCU are considered in the regional office at the place of the violation or at the location of the defendant or at the place where the consequences of the violation occurred.

3. The State Commissioner of the AMCU shall be responsible for cases of violations in the form of:

abuse of a monopoly (dominant) position, anticompetitive concerted actions, if the consequences of the violation occur in a market covering several regions or in a national market;

unfair competition if the applicant and the respondent are located in different regions;

restrictive and discriminatory activities of undertakings and associations provided for in parts one and two of Article 18, Articles 19, 20 and 21 of the Law of Ukraine “On Protection of Economic Competition”, if the consequences of the violation occur on the national market;

failure to submit, or incomplete submission of information to the AMCU within the time limits established by the State Commissioner of the AMCU, the administrative board of the AMCU, the AMCU or regulatory legal acts, or submission of inaccurate information to the AMCU;

creating obstacles to the AMCU's employees in conducting inspections, examination, seizure or arrest of property, documents, objects or other data carriers.

unsealing (opening) premises, electronic communications systems, other possessions or places of storage of information sealed (placed under seal) by the AMCU's employees.

4. Temporary Administrative board of the AMCU may be established to consider any case.

5. Standing Administrative board of the AMCU shall be responsible for cases of violations in the form of:

anti-competitive actions of administrative and economic management and control bodies whose activities cover the entire territory of Ukraine;

delegation of powers to central executive authorities, regional, Kyiv and Sevastopol city state administrations, and local self-government bodies of the

appropriate level;

incitement to violations, creation of conditions for committing such violations or their legitimization by central executive authorities, regional, Kyiv and Sevastopol city state administrations, and local self-government bodies of the relevant level;

issuing recommendations to central executive authorities, regional, Kyiv and Sevastopol city state administrations, and local self-government bodies of the relevant level that encourage or facilitate violations of the legislation on protection of economic competition.

The Standing Administrative Board of the AMCU, on behalf of the Chair of the AMCU, may consider any case, except for those under the jurisdiction of the AMCU.

6. The AMCU shall be responsible for:

cases of violations in the form of anticompetitive actions by central executive authorities, regional, Kyiv and Sevastopol city state administrations, and local governments of the relevant level;

cases whose materials are related to national security, defense, public interest or contain state secrets, or if the defendant in the case is the Parliament of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea.

The AMCU may accept and consider any case.

7. Cases of violations provided for in clauses 5, 10, 11, 12 and 19 of Article 50 of the Law of Ukraine “On Protection of Economic Competition” shall be under jurisdiction to the relevant bodies of the AMCU, which are competent to decide on the issue of granting permission to perform these actions.

8. Cases on violations in the form of restrictions in the economic activity of an undertaking in response to the fact that it has applied to the AMCU or its regional office with a statement on violation of the legislation on protection of economic competition are under the jurisdiction of those bodies of the AMCU that are responsible for the case to be considered on such a statement.

9. Cases of violations in the form of failure to execute a decision, preliminary decision of the AMCU bodies or their incomplete execution shall be considered by the AMCU’s bodies that made the relevant preliminary decision or decisions.

10. The Chair of the AMCU shall have the right, at the request of the persons involved in the case, upon submission of the State Commissioner of the AMCU, Head of the structural unit of the AMCU, Head of the regional office or on his own initiative, to transfer any materials in the proceedings of the body or official authorized to consider them to another body or official.

III. Evidence.

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

This data shall be established by the following means, oral and written: explanations of parties and third parties, explanations of officials and citizens, written evidence, material evidence, electronic evidence, survey of consumers (legal entities and individuals) conducted in accordance with the procedure established by law and expert opinions.

Oral explanations of the parties, third parties, officials and citizens containing data on the presence or absence of violations of the legislation on protection of economic competition shall be recorded in the protocol.

2. Evidence in the case is collected by the bodies or officials of the AMCU, regional office, regardless of the location of the evidence, by performing actions provided for by the legislation on protection of economic competition.

The persons involved in the case shall have the right to provide evidence and prove its reliability (objectivity).

Bodies or officials of the AMCU, regional office have the right to take photographs, audio or video recordings, and record with the help of other technical or software and hardware means (if technically possible).

An act shall be drawn up on the collection and recording of evidence with the help of technical or software and hardware means, which shall be signed by the employees of the AMCU, its regional office authorised to consider the case, who participate in the collection and recording of evidence.

The act shall specify:

the date of its preparation and number;

surname, full name and patronymic (if any), position of the authorised employees of the AMCU or its regional office who collect and record evidence;

address where the evidence is collected and recorded;

list of evidence collected and recorded by means of technical or software and hardware means.

All copies of documents, photographs, electronic copies of evidence, video recordings, etc. made or certified in accordance with the procedure established by law shall be attached to the act along with the description.

In accordance with the procedure provided for in this clause, websites (web pages) and other places where data is stored on the Internet are also inspected, with their content and/or images recorded.

IV. Grounds for initiating the proceedings

The AMCU's bodies shall initiate of proceedings on violation of legislation on protection of economic competition on the grounds specified in Articles 36 and 37 of the Law of Ukraine “On Protection of Economic Competition”.

V. Persons involved in the case, their rights and obligations

1. The persons involved in the case are defined in Article 39 of the Law of Ukraine “On Protection of Economic Competition”.
2. Persons who participate (participated) in the case have the right to get acquainted with the case file, make copies (photocopies) of the case file and make extracts (except for restricted information, as well as information determined by the relevant State Commissioner / head of the regional office, the disclosure of which may harm the interests of other persons, participating (participated) in the case, or prevent further consideration of the case) after receiving a copy of the statement of objections in the case (extract from it in accordance with Clause 6 of Section VII of this Procedure), to present evidence, submit petitions, oral and written explanations (objections), proposals on issues to receive copies of decisions in the case (excerpts therefrom, except for restricted information, as well as information determined by the relevant State Commissioner / head of the regional office, the disclosure of which may harm the interests of other persons involved in the case), to submit their views and objections, to appeal against decisions and orders of the AMCU's bodies in accordance with the procedure established by the Law of Ukraine “On Protection of Economic Competition”, to use the services of an interpreter and other rights provided for by the Law of Ukraine “On Protection of Economic Competition”.

VI. Submission of an application and its consideration

1. Applications of violations in cases under the jurisdiction of the Administrative Board of the regional office of the AMCU shall be filed with the Office at the place of the violation or at the location of the defendant or at the place of the consequences of the violation. Applications for violations in other cases shall be submitted to the AMCU.

An application filed in violation of the rules of jurisdiction shall be returned to the applicant or transferred to the appropriate regional office of the AMCU or to the AMCU within ten days from the date of its receipt. The transfer of an application from one regional office to another shall be carried out upon approval of the Deputy Chair of the AMCU responsible for coordinating the activities of regional offices. The term for consideration of the application shall start from the date of its receipt by the AMCU or the relevant regional office of the AMCU.

The persons entitled to file a statement in accordance with the second paragraph of part one of Article 36 of the Law of Ukraine “On Protection of Economic Competition” or part one of Article 28 of the Law of Ukraine “On Protection against Unfair Competition” are undertakings – competitors, suppliers, buyers or sellers of the defendant and other individuals and legal entities that can confirm that the actions or inactions of the defendant, defined by the said laws as violations of the legislation on protection of economic competition, had or have a direct and negative impact on the defendant's business. Such statements shall comply with the requirements set forth in clause 2 of this section.

Statements of persons who have not proved that actions or inactions containing signs of violation of the legislation on protection of economic competition had or have a direct and negative impact on their rights and/or activities shall not be considered, which shall not prevent the AMCU from conducting an investigation into the facts set forth in such a statement, if necessary, on the AMCU's own initiative.

The AMCU's bodies shall notify the applicant of the refusal to consider such an application by a letter sent within three working days from the date of the relevant decision by means of postal communication or in electronic form by means of information and communication systems.

The requirements of the fourth paragraph of this clause shall not apply to government authorities, local self-government bodies, administrative and economic management and control bodies that have applied to the AMCU's bodies with a submission (application) on violation. Such submissions (applications) shall be considered in accordance with the requirements of this Procedure.

2. An application shall be submitted in writing and shall contain:

name of the body to which the application is submitted (the AMCU or the relevant regional office of the AMCU);

for a legal entity – the name of the legal entity, including the abbreviated name (if any), the identification code of the legal entity in the Unified State Register of Enterprises and Organisations of Ukraine (USREOU) (for legal entities registered under the laws of Ukraine), the legal form, location of the legal entity, e-mail

address, as well as other means of communication with the legal entity (if any);

For an individual – surname, full name and patronymic (if any), registration number of the taxpayer's account card (if any) or series (if any) and passport number (for individuals who, due to their religious beliefs, have refused to accept the registration number of the taxpayer's account card and have officially notified the relevant supervisory authority and have a mark in the passport on the right to make any payments under the series (if any) and passport number, declared/registered place of residence (stay), email address, as well as other means of communication with it (if any);

the content of the claims, including the decisions expected by the applicant from the AMCU's bodies;

a statement of the circumstances by which the applicant substantiates his/her claims, including information on the signs of violation of the legislation on protection of economic competition by the respondent;

justification that the actions or inaction of the defendant, defined by the Law as a violation of the legislation on protection of economic competition, had or have a direct and negative impact on its rights and/or activities;

information on applying to any other state authority, including the court, on the issues raised in the application;

a list of documents and other materials attached to the application.

The application shall be signed by the head of the legal entity (person performing his/her duties) / individual or their authorised representatives.

The application shall be accompanied by the documents available to the applicant (originals or duly certified copies of documents) and other materials confirming the circumstances set out in the application.

If the application is submitted by a representative, it shall specify the name (for legal entities) or surname, full name and patronymic (if any) (for individuals), surname, full name and patronymic (if any) of the representative, his/her postal address, and, if any, the number of the means of communication (telephone, fax, etc.), e-mail address. The application shall be accompanied by a power of attorney or another document confirming the representative's authority. Powers of attorney or other documents issued by authorised bodies of foreign countries in the prescribed form shall be recognised as valid in Ukraine if they are legalised, unless otherwise provided by law or an international treaty of Ukraine.

In case of filing an application for a violation, the proof of which requires market research, the applicant shall express in the application considerations regarding the commodity and territorial (geographical) boundaries of the relevant market, the position of undertakings in this market. The applicant shall also provide

information known to him/her about persons related to the defendant(s) by controlling relations in accordance with Article 1 of the Law of Ukraine “On Protection of Economic Competition”.

The application may also contain other information, if it may be relevant for the consideration of the application, in particular, the name(s) and other details of persons known to the applicant who can confirm the circumstances in respect of which the application is submitted or who can provide additional information relevant for the consideration of the application.

If necessary, the applicant, simultaneously with the filing of the application, may submit a reasoned request to initiate of proceedings on the initiative of the AMCU's bodies due to the possibility of negative consequences for the applicant related to the filing of the application in accordance with paragraph four of part one of Article 36 of the Law of Ukraine “On Protection of Economic Competition”.

Restricted information shall be submitted separately in a sealed envelope (if any); each page of the documents shall be marked “restricted information”. The category of restricted information (confidential or secret) and its nature (commercial, banking, state secrets) must be indicated, as well as the reasons why the applicant considers this information to be restricted information, in particular, why this information should not be disclosed.

3. An application for a violation shall be considered within 60 calendar days, and if additional information is required that cannot be provided by the applicant, the term for consideration of the application may be extended by the State Commissioner, Head of the regional office for 60 calendar days, which shall be notified in writing to the applicant.

In case of receipt of several applications for violations against the same defendant and on the same issue, the State Commissioner/head of the regional office, on their own initiative or at the request of the applicants, may combine such applications, which shall be ordered and notified to the applicants within three business days from the date of the relevant order by post or in electronic form by means of information and communication systems.

The term for consideration of applications that are combined shall be calculated from the date of receipt of the application received first by the AMCU's bodies.

If a case has already been initiated against the respondent specified in the application based on the signs of violation indicated in the application, the application may be joined to this case, which shall be notified to the applicant in writing.

Having established that the application was filed without compliance with the requirements set forth in Clause 2 of this section, and this prevents consideration of

the application, the State Commissioner, head of the regional office shall leave the application without motion, notify the applicant in writing and provide him/her with a term for elimination of deficiencies.

The deadline for elimination of deficiencies in the notification of violation may be extended by the State Commissioner / head of the regional office of the AMCU in case of receipt of a reasoned request from the applicant to extend the deadline for elimination of deficiencies in the notification of violation submitted by him.

The time of leaving the application without motion shall not be counted as a period for consideration of the application.

In case of failure to comply with the above requirements within the established time limit, the application may be left without consideration, which shall be notified to the applicant in writing.

If the applicant withdraws the application, it shall remain without consideration, which shall not prevent the AMCU or the regional office from continuing the investigation of the issues raised in the application.

Leaving the application without consideration does not deprive the applicant (s) of the right to apply to the AMCU or regional office with a repeated application about the violation.

The consideration of an application may be suspended on the initiative of the relevant AMCU body or the head of the regional office, or at the request of the person who filed the application, until the AMCU body or court has completed consideration of another case related to this application or until the AMCU's body or other state body has resolved another issue related to it. An order shall be issued to suspend consideration of the application and resume it. The notice of suspension of the application and its resumption shall be sent to the applicant within three working days from the date of the relevant order.

4. If the applicant submits a reasoned request to initiate of proceedings on the AMCU's own initiative due to the possibility of negative consequences for the applicant related to the filing of the application, the investigation of the application and consideration of the case on violation of the legislation on protection of economic competition shall be initiated by the AMCU.

In order to protect the interests of the applicant who filed such request, a restricted information regime shall be established for the relevant application and the information attached thereto. Such a regime may not be established (maintained) if ensuring the confidentiality of information about the applicant prevents the proof of a violation.

If the applicant's information is kept confidential, the applicant shall retain his/her rights and obligations.

5. The AMCU's bodies may refuse to consider an application submitted by the same applicant on the same issue if the issues raised in the previously submitted application have been considered on the merits.

The issue of refusal to consider such applications submitted to the AMCU shall be decided by the State Commissioner of the AMCU, and in respect of applications submitted to the regional office of the AMCU – by the head of the regional office of the AMCU, which shall be notified to the applicant by letter by means of postal communication or in electronic form by means of information and communication systems.

6. If no signs of violation of the legislation on protection of economic competition are found, the State Commissioner, the head of the regional office shall reasonably refuse to consider the case, and the AMCU body shall issue a relevant reasoned order, which shall be sent to the applicant by post or electronically via information and communication systems within three business days from the date of its adoption.

At the same time, the relevant state authorities and undertakings may be provided with recommendations on measures aimed at preventing violations, developing entrepreneurship and competition.

If the applicant fails to prove that the actions/inactions containing signs of a violation had or have a direct and negative impact on his rights and/or activities, the AMCU's bodies shall refuse to consider the application for violation, and the applicant shall be notified of this by letter by post or electronically via information and communication systems.

7. In case of detection of signs of violation of the legislation on protection of economic competition, if there are grounds provided for by law, in particular part three of Article 36 and part three of Article 46 of the Law of Ukraine “On Protection of Economic Competition”, proceedings are not initiated.

In such a case, the AMCU's body shall issue a respective motivated order to refuse to consider the case of a person who filed a complaint on violation of the legislation on protection of economic competition on the grounds provided for in part three of Article 36 of the Law of Ukraine “On Protection of Economic Competition”, which shall be sent to the applicant by post or in electronic form by means of information and communication systems within three business days from the date of its adoption. When deciding whether to refuse to consider a case, the AMCU's bodies take into account the impact of actions/inactions on the conditions of competition in the market where the violation is the subject of the application,

changes in the structure of such market, the applicant's/respondent's share in such market, increased barriers

to entry into such market, changes in the conditions of business activities of competitors and other undertakings, etc. in such a way that it has an impact on competition in the entire market.

8. The order to start consideration of the case or to refuse to consider the case based on Article 36 of the Law of Ukraine “On Protection of Economic Competition”, subordinate to the AMCU, the Administrative Board of the AMCU, the State Commissioner of the AMCU, shall be issued by the State Commissioner of the AMCU.

9. The Administrative Board of the regional office of the AMCU shall issue an order to initiate or refuse of proceedings based on Article 36 of the Law of Ukraine “On Protection of Economic Competition”, which is subordinate to the Administrative Board of the Regional Office of the AMCU.

VII. Consideration of the case

1. Consideration of the case shall be initiated in accordance with Article 37 of the Law of Ukraine “On Protection of Economic Competition”.

The AMCU's bodies shall consider cases on violation of legislation on protection of economic competition within the time limits stipulated by part one of Article 37-1 of the Law of Ukraine “On Protection of Economic Competition”.

The AMCU shall issue an order on the commencement of the case consideration of case by the bodies of the AMCU, which shall be sent to the respondent by post or in electronic form by means of information and communication systems within three working days from the date of its adoption. Within the same period, the applicant and third parties (if any) shall be notified of the commencement of the case consideration by postal means or in electronic form by means of information and communication systems.

If the order to start consideration of the case is not delivered to the location of the legal entity or the last known declared/registered place of residence (stay) of the individual, the AMCU's body / Head of the Regional Office of the AMCU shall ensure that information on the commencement of consideration of the case is posted on the official website of the AMCU.

The order shall be deemed to have been served on the defendant ten days after the relevant information is posted on the AMCU's official website.

If it is necessary to conduct an inspection of an undertaking, association, governmental body, local self-government body, administrative and economic management and control body, the AMCU's body has the right not to send an order to initiate of proceedings and a notice of the commencement of

consideration of the case before the start of such an inspection, but not more than 20 working days from the date of issuing an order to initiate of proceedings.

If the defendant is identified after the commencement of the proceedings, the AMCU's bodies shall adopt an order to involve him/her in the proceedings as a defendant, which shall be sent to the defendant within three business days from the date of its adoption, together with the order to commence the proceedings by post or in electronic form by means of information and communication systems, subject to the requirements of paragraph six of this clause.

2. If there are justified grounds preventing consideration of the case within the period specified in part one of Article 37-1 of the Law of Ukraine “On Protection of Economic Competition”, the AMCU's bodies may extend this period within the limits specified in part two of Article 37-1 of the Law of Ukraine “On Protection of Economic Competition”.

The AMCU's body shall issue an order to extend the time limit for consideration of the case, and the persons involved in the case shall be notified thereof by post or electronically via information and communication systems within three business days from the date of issuance of the relevant order.

3. Employees of the AMCU and regional office authorised to consider the case, who collect and analyse evidence, take actions aimed at comprehensive, complete and objective clarification of the actual circumstances of the case, rights and obligations of the parties.

In particular, the following actions may be taken in cases:

research of the regional or national market;

obtaining written and oral explanations from the parties, third parties, and other persons, which are recorded in the protocol;

conducting inspections of undertakings, associations, authorities, local self-government bodies, administrative and economic management and control bodies;

seizure or arrest of property, items, documents, other data carriers that may indicate signs of violation of the legislation on protection of economic competition, be evidence or a source of evidence in the case;

inspecting the premises and other possessions of the undertakings, associations, governmental authorities, local self-government bodies, administrative and economic management and control bodies;

sealing (placing under seal) of premises, other property, electronic communications systems or information storage facilities;

surveying consumers (legal entities and individuals).

Actions in cases referred to in paragraphs five to eight of this clause shall be carried out in accordance with the procedure established by law on the basis of a court decision of the economic court.

Based on the results of collecting and analysing evidence in the case, a statement of objections is drawn up and submitted to the AMCU's bodies that are responsible for the case, together with the case file.

In order to clarify circumstances that are relevant to the case and require special knowledge in the field of science, technology, crafts, etc., an expert examination may be appointed by order of the AMCU's bodies that are responsible for the case, on their own initiative or at the request of a person involved in the case.

The request for information is sent to legal entities at their location specified in the USREOU, and to individuals at their declared/registered place of residence (stay). The request may additionally be sent to the last known location of the legal entity or the declared/registered place of residence (stay) of the individual.

If the request for information is not delivered to the location of the legal entity or the last known declared/registered place of residence (stay) of the individual, the AMCU's body / head of the regional office of the AMCU shall ensure that the request for information is posted on the official website of the AMCU. The said request shall be deemed to have been delivered to the addressee ten days after its publication on the official website of the AMCU.

4. Having established that another person should be involved in the case as a defendant, the AMCU's bodies shall adopt an order to replace the defendant or to involve co-defendants in the case, and the persons involved in the case shall be notified thereof.

The relevant order, together with the order to commence consideration of the case, shall be sent to the persons involved by post or electronically via information and communication systems within three business days from the date of its adoption.

The persons involved in the case shall be notified of the replacement of the defendant in the case or the involvement of a co-defendant in the case within three business days from the date of the relevant order by means of postal communication or in electronic form by means of information and communication systems.

5. The AMCU's bodies that have initiated or are of proceedings may issue an order to merge several cases into one or to separate the case for separate consideration, which shall be notified to the persons involved in the case within three business days from the date of its adoption by post or in electronic form by means of information and communication systems.

6. Copies of the statement of objections (or excerpts therefrom) that do not contain restricted information that should be excluded or blacked out or otherwise modified to ensure sufficient protection and at the same time completeness of the reasoning for the preliminary findings made by the AMCU's body, as well as information determined by the relevant State Commissioner, head of the regional office, the disclosure of which may harm the interests of other persons involved in the case or prevent further consideration of the case) shall be sent to the parties and third parties no later than ten days before the decision in the case is made.

Upon a reasoned request of a person participating in the case for a longer time to consider the submission and prepare a response to it, the case may be postponed.

In cases where the AMCU's decision affects the interests of a wide range of undertakings or consumers, in order to promptly terminate the violation and eliminate its consequences, the period specified in the first paragraph of this clause may be reduced to seven days. The persons involved in the case shall be notified of the reduction of the term simultaneously with the notification of the date, time and place of the case consideration.

If a copy of the statement of objections is not delivered to the location of the legal entity or the last known declared/registered place of residence (stay) of the individual involved in the case, the AMCU's body / head of the regional office of the AMCU shall ensure that information on the preliminary conclusions in the case, indicating the date, time and place of the case hearing, is posted on the official website of the AMCU no later than five calendar days before the day of the hearing.

7. The decision may be made earlier if a response is received from the party and third parties to whom the submission was sent.

The persons involved in the case shall be notified of the date, time and place of the hearing by letter by means of postal communication not later than five days before the day of the hearing.

Additionally, the persons participating in the case may be notified of the date, time and place of the hearing by telephone, telegram, facsimile, e-mail or other means of communication (including mobile) that ensure the recording of the message or call.

8. Consideration of a case may be suspended on the initiative of the relevant body of the AMCU or at the request of a person involved in the case until the AMCU's body or the commercial court has completed consideration of another case related to this case or until the state body has resolved another issue related to it. An order shall be issued on suspension of the case and its resumption.

The notice of suspension of the case and its resumption shall be sent to the persons involved in the case within three business days from the date of the relevant order.

VIII. Decisions in cases

1. When proving a violation, depending on the circumstances of the case, one or more decisions may be made in accordance with Article 48 of the Law of Ukraine “On Protection of Economic Competition” and Article 30 of the Law of Ukraine “On Protection against Unfair Competition”.

2. In the course of consideration of the case, the AMCU's bodies may make a preliminary decision in the case in accordance with Article 47 of the Law of Ukraine “On Protection of Economic Competition”.

The preliminary decision in the case is published on the official website of the AMCU within 10 working days from the date of its adoption. The preliminary decision shall be made public in full, except for information with restricted access. Restricted information shall be excluded or blacked out or otherwise modified to ensure sufficient protection of such information and, at the same time, full justification of the decision by the AMCU's body.

3. Penalties for violations stipulated by the Laws of Ukraine “On Protection of Economic Competition” and “On Protection against Unfair Competition” shall be imposed in accordance with the requirements of Articles 46-1, 52, 52-1 of the Law of Ukraine “On Protection of Economic Competition”, Article 21 of the Law of Ukraine “On Protection against Unfair Competition”.

4. The decision shall contain the reasons for the decision, indicate the circumstances of the case established by the AMCU's body with reference to the relevant evidence, as well as the provisions of the legislation by which the AMCU's body was guided in making the decision, justification of the amount of the fine and refutation of objections submitted by the persons involved in the case before statement of objections in the case (if any).

When deciding on the imposition of a fine, the operative part of the decision shall specify the amount of the fine. The operative part of the decision, in addition to the relevant conclusions and obligations provided for in Article 48 of the Law of Ukraine “On Protection of Economic Competition” and Article 30 of the Law of Ukraine “On Protection against Unfair Competition”, should, where necessary, contain an indication of the actions that the defendant must take or refrain from to terminate the violation and eliminate its consequences.

5. The decision in the case shall be submitted for execution in accordance with part one of Article 56 of the Law of Ukraine “On Protection of Economic

Competition”.

In addition to the persons to whom the decision is provided for execution in accordance with the first paragraph of this clause, the decision in the case (an extract from it, which does not contain information with limited access, which should be excluded or blacked out or otherwise changed to ensure sufficient protection of it and at the same time completeness of the justification of the decision by the AMCU's body, as well as information determined by the State Commissioner, Head of the Regional Office of the AMCU, the disclosure of which may harm the interests of other persons involved in the case) shall be sent to the persons, who were involved in the case.

The decision made upon consideration of cases on violation of the legislation on economic competition protection shall be published on the official website of the AMCU within 10 working days from the date of its adoption. The decision shall be published in full, except for the information defined as restricted information. The information with restricted access shall be excluded or blacked out or changed in another way that ensures its sufficient protection and, at the same time, the completeness of the justification of the decision made by the AMCU's body.

6. At the request of the person on whom the fine was imposed, the AMCU's bodies may, by their decision, defer or instalment payment of the fine imposed by them, but not more than for 12 months.

An application for deferral or instalment of payment of the fine shall be submitted to the AMCU body that made the decision to impose the fine within 30 calendar days from the date of receipt of such decision.

The application for deferral or instalment payment of the imposed fine shall be left without consideration and returned to the applicant with the documents attached thereto if it is submitted to the AMCU's body after the expiration of the period specified in the second paragraph of this clause.

The application for deferral or instalment payment of the imposed fine shall be submitted in writing and shall contain:

name of the AMCU's body to which the application is submitted;

the applicant's consent to the fact that he/she has committed a violation of the legislation on protection of economic competition;

the applicant's consent to the amount of the fine imposed for the violation of the legislation on protection of economic competition;

a statement of the circumstances by which the applicant justifies the impossibility of paying the fine in full and within the time limits established by part three of Article 56 of the Law of Ukraine "On Protection of Economic Competition";

information with an economic justification that indicates the possibility of paying the fine as a result of a decision to defer or instalment payment of the imposed fine, a schedule for repayment of instalments (deferred) amounts of the fine; calculations of forecasted income that guarantee the fulfilment of the schedule for repayment of the imposed fine;

other information relevant to resolving the issue of deferral or instalment payment of the imposed fine.

The application shall be accompanied by documents and other evidence proving the existence of the circumstances set out in the application for deferral or instalment payment of the imposed fine.

Evidence of the impossibility of paying a fine may only include documented information on the basis of which the AMCU's bodies, when considering an application for deferral or instalment payment of the imposed fine, may conclude that there are circumstances that objectively prevent or complicate the applicant's ability to pay the imposed fine within the time limit established by law.

The AMCU's bodies shall consider the application for deferral or instalment payment of the imposed fine and the documents attached thereto within 30 calendar days from the date of its receipt.

Based on the results of consideration of the application for deferred or instalment payment of the imposed fine and the documents attached thereto, the relevant body of the AMCU shall make a reasoned decision to defer or instalment payment of the imposed fine or to refuse to defer or instalment payment of the imposed fine, which shall be notified to the applicant within three business days from the date of the relevant decision by post or in electronic form by means of information and communication systems.

The decision to defer or instalment payment of the imposed fine or to refuse to defer or instalment payment of the imposed fine shall be made by the AMCU's body on the basis of the information provided by the applicant.

Submission of an application for deferral or instalment payment of the imposed fine and its consideration by the AMCU's body shall not terminate the accrual of a penalty in accordance with the established procedure in case of expiration of the term for payment of the fine provided for in part three of Article 56 of the Law of Ukraine "On Protection of Economic Competition" before the day of making a decision on deferral or instalment payment of the fine.

7. The AMCU's bodies that made the decision shall not have the right to cancel or change it, except as provided for in Article 58 of the Law of Ukraine "On Protection of Economic Competition".

They have the right to correct any misprints or obvious arithmetic errors made in the decision, explain their decision without changing its content, as well as to make an additional decision if no decision was made on any issue that was investigated during the case consideration.

An order is issued to correct a clerical error or obvious arithmetical error in the decision, or to clarify the decision, and is sent to the persons involved in the case within three business days of its adoption.

8. Having established the fact of violation during the case consideration, the AMCU's body that initiated of proceedings shall have the right to make mandatory submissions to the relevant state authorities on cancellation of licences, termination of foreign economic activity operations of undertakings.

Having established the data indicating the existence of signs of a crime, the body or official who initiated or is proceedings the case shall submit a report to law enforcement agencies or send them relevant materials for consideration on the merits.

9. Consideration of the case on violation of legislation on protection of economic competition shall be closed without making a decision on the merits in accordance with Article 49 of the Law of Ukraine “On Protection of Economic Competition”.

IX. Reviewing decisions in cases

1. Decisions made by the Administrative Board of the Regional Office of the AMCU may be reviewed by the AMCU or the Administrative Board of the AMCU at the request of persons involved in the case or on its own initiative on the basis of a request for review of the decision by the State Commissioner of the AMCU.

Decisions made by the State Commissioner, the Administrative Board of the AMCU may be reviewed by the AMCU at the request of persons involved in the case or on its own initiative on the basis of a request from the Chair of the AMCU to review the decision.

2. Pursuant to part two of Article 57 of the Law of Ukraine “On Protection of Economic Competition”, an application for review of a decision (hereinafter - application for review) may be submitted to the AMCU within two months from the date of receipt of the decision. This period may not be extended.

An application for review shall be submitted in writing and shall contain the applicant's requirements, including the expected decisions based on the results of the review, as provided for in part five of Article 57 of the Law of Ukraine “On Protection of Economic Competition”, as well as the grounds for changing or

cancelling the decision provided for in Article 59 of the Law of Ukraine “On Protection of Economic Competition”, and evidence to support them.

3. Within ten working days from the date of registration of the application for review at the AMCU, the State Commissioner shall check its compliance with the requirements set forth in paragraph one of the Clause 2 of this Section.

The application for inspection shall be left without consideration and returned to the applicant if it is submitted to the AMCU after the expiration of the term specified in the first paragraph of Clause 2 of this Section.

If the application for review is submitted without compliance with the requirements set forth in the second paragraph of Clause 2 of this Section, the State Commissioner shall leave it without motion, notify the applicant in writing and provide him/her with a term for elimination of deficiencies.

If the applicant fails to eliminate the deficiencies of the application for review within the established time limit, the State Commissioner shall leave the application without consideration and notify the applicant in writing.

4. If the application for review meets the requirements set forth in Clause 2 of this section, the State Commissioner shall issue an order to accept the application for consideration, and the persons involved in the case shall be notified in writing within three business days.

If, simultaneously with acceptance of the application for consideration, the issue of suspension of execution of the decision in accordance with Clause 6 of this section is resolved, the order to accept the application for consideration and suspend execution of the decision upon submission of the State Commissioner shall be made by the AMCU or the Administrative Board of the AMCU established in accordance with the procedure established by law for review of the decision (hereinafter - Administrative Board of the AMCU conducting the review).

5. The State Commissioner of the AMCU shall have the right to request from the Regional Office of the AMCU the case materials necessary for consideration of the application for review of the decision of the Administrative Board of the Regional Office of the AMCU or for deciding whether there are grounds for submitting a request for review of such a decision on its own initiative.

6. Pursuant to part four of Article 57 of the Law of Ukraine “On Protection of Economic Competition”, the AMCU or the Administrative Board of the AMCU conducting the review may, by its order, suspend the execution of the decision until the end of its inspection, and the persons involved in the case shall be notified in writing within three business days.

7. Consideration of an application for review may be suspended by the State Commissioner who accepted such an application for consideration, on his/her own initiative or at the request of a person involved in the case, until the AMCU's body or court has completed consideration of another case related to this application or until the AMCU's body or other state body has resolved another issue related to this application.

The State Commissioner who accepted such an application for consideration shall issue an appropriate order to suspend consideration of the application for review and resume it, and the persons involved in the case shall be notified of the suspension within three business days from the date of its issuance.

8. Consideration of the application for review shall be terminated if: the person has withdrawn the application for inspection;

the legal entity that submitted the application for review is liquidated;

the decision of the AMCU's body under review is amended, cancelled or invalidated in accordance with the procedure established by law in the part related to the applicant's claims.

The State Commissioner shall issue an order to terminate consideration of the application and notify the persons involved in the case in writing within three business days.

The refusal of a person to file an application for review shall not prevent the AMCU from continuing the review of the decision on its own initiative.

9. The period for consideration of an application for review shall not exceed two months.

Based on the results of the application for review, as well as in case of identification of grounds for changing or cancelling the decision provided for in Article 59 of the Law of Ukraine "On Protection of Economic Competition", the Chair of the AMCU or the State Commissioner of the AMCU shall draw up a proposal for reviewing the decision and submit it to the AMCU or the Administrative Board of the AMCU that conducts the review.

Preparation for consideration by the AMCU or the Administrative Board of the AMCU of the issue of reviewing the decision shall be carried out in accordance with the procedure provided for in Clauses 6, 7 of Section VII of this Procedure.

10. Based on the results of the decision review, the AMCU or the Administrative Board of the AMCU shall make a decision in accordance with part five of Article 57 of the Law of Ukraine "On Protection of Economic Competition".

The decision made upon the results of the review shall be submitted for execution, sent and published in accordance with part one of Article 56 of the Law of Ukraine “On Protection of Economic Competition” and clause 5 of Section VIII of this Procedure.

X. Revision of decisions in cases

1. Decisions of the AMCU's bodies may be revised by them upon applications of persons or on their own initiative in case of presence of grounds provided for in part one of Article 58 of the Law of Ukraine “On Protection of Economic Competition”.

The grounds for amendment, cancellation or invalidation of the AMCU's decisions provided for in Article 59 of the Law of Ukraine “On Protection of Economic Competition” shall not be applied by the AMCU's bodies when revising the decisions of the AMCU's bodies.

2. An application of a person for revision of a decision (hereinafter - application for revision) made by the Administrative Board of the Regional Office of the AMCU shall be submitted to the relevant regional office. An application for revision of decisions of other bodies of the AMCU shall be submitted to the AMCU.

The application for revision shall be submitted in writing and shall contain the applicant's claims, including the expected decisions based on the results of the revision, as provided for in part three of Article 58 of the Law of Ukraine “On Protection of Economic Competition”, as well as the grounds for revision the decision provided for in part one of Article 58 of the Law of Ukraine “On Protection of Economic Competition”, and evidence to support them.

3. Within ten working days from the date of registration of the application for revision by the AMCU, the relevant regional Office of the AMCU, the State Commissioner, the Head of the Regional Office of the AMCU shall check its compliance with the requirements set forth in clause 2 of this section.

The application for revision shall be left without consideration and returned to the applicant if it is submitted to the AMCU or the regional office of the AMCU after the expiration of the terms specified in part two of Article 58 of the Law of Ukraine “On Protection of Economic Competition”.

If the application for revision is submitted without compliance with the requirements set forth in Clause 2 of this section, the State Commissioner or the Head of the Regional Office of the AMCU shall leave it without motion, notify the applicant in writing and provide him/her with a term for elimination of

deficiencies.

If the applicant fails to eliminate the deficiencies of the application for revision within the established time limit, the State Commissioner or the Head of the

Regional Office of the AMCU shall leave the application without consideration and notify the applicant in writing.

4. If the application for revision meets the requirements set forth in Clause 2 of this Section, the State Commissioner, the Head of the Regional Office of the AMCU shall issue an order to accept the application for review, and the persons involved in the case shall be notified in writing within three business days.

If simultaneously with the acceptance of the application for consideration the issue of suspension of the decision in accordance with Clause 6 of this Section is resolved, the order to accept the application for consideration and suspend the decision upon submission of the State Commissioner, Head of the Regional Office of the AMCU shall be adopted by the AMCU's body that revises the decision.

Upon acceptance of the application for consideration, the proceedings for revision of the decision shall commence.

5. In case the AMCU, regional office in the course of performing its tasks discovers information on the existence of grounds provided for in part one of Article 58 of the Law of Ukraine "On Protection of Economic Competition", the AMCU's body shall initiate proceedings to revise the relevant decision on its own initiative and issue an order to that effect.

The order to initiate the proceedings on revision of the decision shall be sent to the persons involved in the case within three working days from the date of its adoption.

6. Pursuant to paragraph seven of part one of Article 58 of the Law of Ukraine "On Protection of Economic Competition", the AMCU's body revision the decision may, by its order, suspend the execution of the decision until the end of its revision, and the persons involved in the case shall be notified in writing within three business days.

7. During the proceedings on revision of the decision, the AMCU's bodies, employees of the AMCU, regional office shall carry out actions provided for by part two of Article 35 of the Law of Ukraine "On Protection of Economic Competition" and Clause 3 of Section VII of this Procedure.

8. Consideration of the application for revision may be suspended by the State Commissioner, the Head of the Regional Office of the AMCU, the AMCU's body that revises the decision on its own initiative or at the request of a person involved in the case until the AMCU's body or court completes consideration of another case related to this application or until the AMCU's body or other state body resolves another issue related to it.

An order shall be issued on the suspension of consideration of the application and its resumption and shall be notified to the persons involved in the case within three working days from the date of its adoption.

9. Based on the results of the proceedings on revision of the decision, the persons referred to in Clause 7 of this Section shall prepare a statement of objections, which shall be submitted to the AMCU's body that revises the decision.

Preparation for consideration by the AMCU's bodies of the issue of revising the decision shall be carried out in accordance with the procedure provided for in Clauses 6, 7 of Section VII of this Procedure.

10. Based on the results of the decision revision, the AMCU's bodies shall make a decision in accordance with part three of Article 58 of the Law of Ukraine "On Protection of Economic Competition".

The decision made upon the results of the revision shall be submitted for execution, sent and published in accordance with part one of Article 56 of the Law of Ukraine "On Protection of Economic Competition" and Clause 5 of Section VIII of this Procedure.

XI. Hearings in the case

1. The AMCU's bodies considering the case on violation of legislation on protection of economic competition, as well as the AMCU's bodies reviewing, revising the decision in the case, may hold hearings in the case before making a decision on the merits.

Hearings in the case shall be held at the request of the parties to the case or on the initiative of the AMCU's body or on the instructions of the Chair of the AMCU.

The persons participating in the case, as well as other persons, if they are involved in the hearing, shall be notified of the day, time and place of the hearing no later than 5 days before the hearing.

The hearing shall be conducted by the body of the AMCU considering the case or, on behalf of the Chair of the Collegial Body, by one or more of its members.

The AMCU's body shall invite persons involved in the case to the hearing to provide comments, explanations, arguments and other considerations necessary to establish the actual circumstances of the case.

Employees of the AMCU and its regional offices shall participate in the hearing. If necessary, the AMCU's body shall involve experts and interpreters in the hearing.

Other persons may be invited to the hearing if the applicant and the respondent have not expressed any reasonable objections to this.

The AMCU's body, on its own initiative or at the request of the persons involved in the case, may hold a fully or partially closed hearing in the case, if an open hearing may harm the interests of the state, persons involved in the case or other persons, or prevent further consideration of the case.

The presiding officer shall announce the holding of a fully or partially closed hearing in the case at the hearing.

Only persons participating in the case and, if necessary, experts and interpreters may be present during a fully or partially closed hearing in the case. The Chairperson of the hearing shall warn these persons of the obligation not to disclose information to ensure the protection of which the closed hearing is held.

The Chairperson of the hearing shall take measures to establish the factual circumstances of the case. He or she may remove from the hearing persons who violate the procedure. In this case, the hearing continues without the participation of these persons.

2. The hearing or a part of it shall not be held if its holding may cause a threat to public order, state security or a threat of disclosure of restricted information or information, the disclosure of which may harm the interests of the persons involved in the case.

The hearing is recorded. The minutes shall indicate

the AMCU body conducting the hearing;

the form of the hearing (open, fully or partially closed), place, date, time of the beginning and end of the hearing in the case;

surname, full name and patronymic (if any) of the Chairperson, members of the AMCU's collegial body, indicating their positions, and other persons present at the hearing;

issues that were considered and the main content of explanations, arguments, considerations provided by the participants of the hearing.

If technically feasible, the hearing may be recorded by technical means, and the participants in the hearing shall be notified of this. In case of audio or video recording of the hearing, the relevant recording shall be attached to the hearing record and shall be its integral part.

The minutes of the hearing shall be drawn up within three working days from the date of the hearing and signed by the Chairperson, members of the collegial body who conducted the hearing. Persons involved in the case may, upon request, review the contents of the minutes and receive a copy thereof, as well as submit

clarifications, objections, explanations or comments to the AMCU's body, which shall be attached to the minutes.

The fact that the persons participating in the hearing on the case were acquainted with the content of the minutes shall be indicated in the minutes.

Information, documents and things provided and received during the hearing shall be attached to the case on violation of legislation on protection of economic competition.