



International
Competition
Network

ANTI-CARTEL ENFORCEMENT TEMPLATE

CARTELS WORKING GROUP
Subgroup 2: Enforcement Techniques

SLOVAK REPUBLIC

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ICN ANTI-CARTEL ENFORCEMENT TEMPLATE

IMPORTANT NOTES:

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

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

[Please include, where applicable, any references to relevant statutory provisions, regulations or policies as well as references to publicly accessible sources, if any.]¹

1. Information on the law relating to cartels

**A. Law(s) covering cartels:
[availability (homepage address) and indication of the languages in which these materials are available]**

Substantive rules:

Act No. 136/2001 on Protection of Competition and on Amendments and Supplements to Act of the Slovak National Council No. 347/1990 Coll. on Organization of Ministries and Other Central Bodies of State Administration of the Slovak Republic as amended as amended (hereinafter "The Slovak Competition Act")

Homepage address: www.antimon.gov.sk

Languages: Slovak, English

Procedural rules:

Act No. 71/1967 Coll. on Public Administrative Procedures

Homepage address: <https://www.slov-lex.sk/domov>

¹ Editor's note: all the comments in [square brackets] are intended to assist the agency when answering this template, but will be removed once the completed template is made public.

	Languages: Slovak, English
B. Implementing regulation(s) (if any): [name and reference number, availability (homepage address) and indication of the languages in which these materials are available]	None.
C. Interpretative guideline(s) (if any): [name and reference number, availability (homepage address) and indication of the languages in which these materials are available]	<p>Decree No. 169/2014 of the Antimonopoly Office of the Slovak Republic laying down thresholds for determination whether the agreement between undertakings, concerted practice of undertakings or decision by associations of undertakings has inappreciable impact on competition</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak, English</p> <p>Decree No. 171/2014 of the Antimonopoly Office of the Slovak Republic laying down details on settlement</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak, English</p> <p>Decree No. 172/2014 of the Antimonopoly Office of the Slovak Republic laying down details on leniency programme</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak, English</p>
D. Other relevant materials (if any): [availability (homepage address) and indication of the languages in which these materials are available]	<p>Guidelines on the Competences of the Antimonopoly Office of the Slovak Republic to Conduct Inspections</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak, English</p> <p>Guidelines on the procedure for setting the fines in cases of abuse of dominant position and agreements restricting competition</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak only</p> <p>Indications of anticompetitive conduct of entrepreneurs within public procurement</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak, English</p> <p>Cartel agreements in public procurement</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak only</p>

	<p>Decisions of the Antimonopoly Office of the Slovak Republic</p> <p>Homepage address: www.antimon.gov.sk</p> <p>Languages: Slovak</p> <p>The relevant European sources are also applied.</p>
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2. Scope and nature of prohibition on cartels

<p>A. Does your law or case law define the term “cartel”? [Please quote.]</p> <p>If not, please indicate the term you use instead. [Please quote.]</p>	<p>The Slovak law uses the term "agreements restricting competition" to describe cartels. As Article 4 par. 1 of the Slovak Competition Act the term covers all the agreements between undertakings and concerted practices, as well as decisions by associations of undertakings, which have as their object or effect the restriction of competition.</p> <p>Par. 3 of the same Article explains that</p> <p>a) an agreement between undertakings means any oral or written expression of the will of the parties thereto, as well as any other expression of the will derived from their conduct;</p> <p>b) a concerted practice means any coordination between undertakings that does not have signs of the agreement between undertakings referred to in (a) and cannot be considered as a natural adaptation to the conduct of another undertaking;</p> <p>c) a decision by an association of undertakings is any legal act of the association’s body, as well as a recommendation of the association’s body.</p>
<p>B. Does your legislation or case law distinguish between very serious cartel behaviour (“hardcore cartels” – e.g.: price fixing, market sharing, bid rigging or production or sales quotas²) and other types of “cartels”? [Please describe how this differentiation is made and identify the most egregious types of conduct.]</p>	<p>Article 4 par. 4 of the Slovak Competition Act expressly mentions the following types of cartels:</p> <p>a) direct or indirect fixing of prices or any other trading conditions;</p> <p>b) commitment to limit or control production, sales, technical development, or investments;</p> <p>c) market allocation or allocation of sources of supply;</p> <p>d) commitment by the parties to the agreement that different conditions relating to an identical or comparable performance will be applied by them to individual undertakings thereby placing them at a competitive disadvantage;</p> <p>e) conditions stipulating that the conclusion of contracts that will require the parties to accept supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of the contract; or</p> <p>f) coordination of undertakings in public procurement, in public</p>

² In some jurisdictions these types of cartels – and possibly some others – are regarded as particularly serious violations. These types of cartels are generally referred to as “hardcore cartels”. Hereinafter this terminology is used.

	<p>tender or in other similar tendering procedure, in connection with public procurement, public tender or other similar tendering procedure.</p> <p>In practice, the activities covered by Article 4 par. 3 a), b), c), f) of the Slovak Competition Act are considered to be hardcore cartels.</p> <p>However, the Slovak Competition Act does not directly differentiate between hardcore and other cartels. The gravity of the infringement is considered by the Antimonopoly Office of the Slovak Republic (hereinafter “the AMO” or “the Office”) on a case-by-case basis.</p>
<p>C. Scope of the prohibition of hardcore cartels: [including any exceptions, exclusions and defences e.g. for particular industries or sectors. Please also describe any other limitations to the ban on hardcore cartels.]</p>	<p>According to Article 4 par. 5 f the Slovak Competition Act the prohibition pursuant to the paragraph 1 shall not apply to agreements restricting competition which simultaneously</p> <p>a) contribute to the improvement of production or distribution of goods or to promotion of technical or economic progress, while allowing consumers a fair share of the resulting benefit;</p> <p>b) do not impose on parties to the agreements restricting competition such restrictions which are not indispensable to the attainment of the objectives pursuant to the subparagraph (a), and</p> <p>c) do not enable the parties to the agreement restricting competition to eliminate competition in respect of a substantial part of the products in question in the relevant market.</p> <p>Article 5 of the Slovak Competition Act also provides for a block exemption for those categories of agreements restricting competition that may not affect trade between Member States of the European Union, which may have as their object or effect the restriction of competition in the domestic market and which meet the conditions for exemption from the prohibition pursuant to special legislation (e.g. EC Block Exemption Regulations).</p>
<p>D. Is participation in a hardcore cartel illegal <i>per se</i>³? [If the situation differs for civil, administrative and criminal liability, please clarify this.]</p>	<p>Yes.</p>
<p>E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?</p>	<p>The proceedings and investigations conducted by the AMO according to the Slovak Competition Act are of administrative nature and the sanctions imposed are also administrative.</p> <p>However, Art. 250 par. 1 of Act No. 300/2005 Coll. Criminal Act as amended (Penal Code) provides, <i>inter alia</i>, that whoever abuses the participation in a competition via conduct that breaches the Slovak Competition Act and causes considerable harm to the other competitor or threatens the operation of the other competitors business is liable to imprisonment of up to 3 years. This could concern hardcore cartels. Such an offence would be investigated by the police / a prosecutor and the</p>

³ For the purposes of this template the notion of 'per se' covers both 'per se' and 'by object', as these terms are synonyms used in different jurisdictions.

charges would be brought before court in criminal proceedings.

3. Investigating institution(s)

A. Name of the agency, which investigates cartels: [if there is more than one agency, please describe the allocation of responsibilities]	The Antimonopoly Office of the Slovak Republic The Division of Cartels (Protimonopolný úrad Slovenskej republiky Oddelenie kartelov)
B. Contact details of the agency: [address, telephone and fax including the country code, email, website address and languages available on the website]	The Antimonopoly Office of the Slovak Republic The Division of Cartels Drieňová 24 826 03 Bratislava The Slovak Republic Tel.: +421 2 48 297 221 Fax: +421 2 43 333 572 E-Mail: zuzana.minarovjech@antimon.gov.sk E-Mail: zuzana.kochanova@antimon.gov.sk Website: www.antimon.gov.sk (in Slovak and English)
C. Information point for potential complainants:	See above. There is also the possibility to file a complaint via the website of the Antimonopoly Office of Slovak Republic: http://www.antimon.gov.sk/how-to-file-a-complaint/ and the link above provides information on how to do that.
D. Contact point where complaints can be lodged:	See above.
E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.	The Police. They may provide assistance with entering buildings if the investigated subjects do not cooperate.

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

A. Name of the agency making decisions in cartel cases: [if there is more than one agency, please describe the allocation of responsibilities.]	The Division of Cartels of the AMO.
B. Contact details of the agency: [address, telephone and fax including the country code, email, website address and languages available on the website]	See answer to point 3. B. above.
C. Contact point for questions and consultations:	See answer to point 3. B. above.
D. Describe the role of the investigating agency in the process leading to the sanctioning of the cartel conduct.	The investigators are employees of the Division of Cartels and are responsible for the investigation of the cases. They can use the powers indicated in Part Four of the Slovak Competition Act. After the completion of the investigations the investigator responsible for the case drafts a decision. Before a decision on the merits is taken, the division informs the parties to the case about its preliminary assessment. The decision is then signed by the Director of the Division.
E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?	Not applicable.

5. Handling complaints and initiation of proceedings

A. Basis for initiating investigations in cartel cases: [complaint, ex officio, leniency application, notification, etc.]	Investigations are dealt with Part Four of the Slovak Competition Act. According to Article 22 par. 1 it is within the powers of the AMO to: <ul style="list-style-type: none"> a) conduct investigation in particular sectors of the economy in order to obtain information on state of competition in the sector; b) conduct investigation to establish whether there is a reason to initiate the proceedings pursuant to this Act; c) conduct investigative actions and other actions of legal aid at the request of the competition authority of another state pursuant to special legislation or pursuant to the international
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⁴ Meaning: institution taking a decision on the merits of the case (e.g. prohibition decision, imposition of fine, etc.)

treaty by which is the Slovak Republic bound...

Part Five of the Slovak Competition Act deals with the proceedings.

Article 25 provides that in case of an agreement restricting competition, abuse of a dominant position and other forms of unlawful restriction of competition the proceeding shall be always initiated ex officio. The Office may initiate the proceedings ex officio also on the basis of a written complaint of a natural or a legal person. On the basis of a request submitted by a natural or a legal person filing a written complaint, the Office shall inform them in writing of further procedure regarding the matter within two months following the date of receipt of the request.

Leniency is dealt with Part Six of the Slovak Competition Act, namely Article 38 d. Article 38 d stipulates that a party to a cartel shall not be fined if it is the first to provide on its own initiative

a) decisive evidence on the cartel or was the first to apply for reservation of ranking and submits such evidence within the time limit set by the Office and fulfils the conditions for the participation in the leniency programme, or

b) information and evidence decisive for conducting an inspection pursuant to the Article 22a which should lead to acquisition of decisive evidence enabling to prove such violation, or was the first to apply for reservation of a place and submits such information and evidence within the deadline set by the Office and fulfils the conditions for the participation in the leniency programme.

Article 38 g also introduces the "informant" concept:

Informant is a natural person who

a) is not an undertaking pursuant to this Act;

b) is not an employee of the undertaking applying for non-imposing a fine or reduction of fine pursuant to the Article 38d of this Act which application was submitted before the informant submitted an evidence according to this paragraph, and

c) was the first to provide the Office with information on agreement restricting competition pursuant to the Article 4 paragraph 1 or pursuant to the provisions of the special legislation 27) parties of which operate on the same level of a production or distribution chain, namely

1. document in written or electronic form being the decisive evidence on such violation, or

2. information and evidence decisive for conducting inspection pursuant to the Article 22a which should lead to acquisition of decisive evidence enabling to prove such violation.

Par. 2 provides for a reward for an informant, if he/she asks for it and the provided evidence according to paragraph 1 subparagraph c) point 1 or point 2 was decisive for the

	<p>decision on violation of the Act, decision of the Office became valid and is enforceable and the fine imposed by the decision of the Office was paid. If the decision was subject to the court's review 28), the informant is entitled to receive reward only after the court finally dismissed the action on examining the legality of the Office's decision and the fine imposed by the Office in decision was paid.</p> <p>Reward for an informant represents 1% of the total of fines imposed on all parties to the agreement restricting competition in the decision of the Office, but not more than EUR 100 000; if the court 28) changes the amount of fine imposed by the Office, this changed fine represents the basis for reward calculation. If the fine has not been paid in the period of 100 days from the day when the decision of the Office became enforceable or on the day when the court's ruling on examining the legality of the decision of the Office by which the action on examining the legality of the decision of the Office was dismissed or by which the fine imposed by the Office was reduced, whichever of the foregoing occurs later, becomes valid, the informant is entitled to receive 50% of the reward which it would receive otherwise according to the first sentence, but not more than EUR 10 000.</p> <p>The Office shall protect the identity of the informant if so requested.</p> <p>Paragraph 1 shall not prejudice the provisions of the Article 38d paragraph 1.</p> <p>Information on violation according to paragraph 1 is not considered a violation of the confidentiality obligation acknowledged by the special regulation 29) or contract.</p> <p>More information about the informant system can be found at: http://www.antimon.gov.sk/cartel-informant-reward/ .</p>
<p>B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)? [If there is a requirement to complete a specific form, please, indicate its location (website address).]</p>	<p>No.</p>
<p>C. Legal requirements for lodging a complaint against a cartel: [e.g. is legitimate interest required, or is standing to make a complaint limited to certain categories of complainant?]</p>	<p>None.</p>
<p>D. Is the investigating agency obliged to take action on each complaint that it receives or does it have discretion in this respect? [Please elaborate.]</p>	<p>No, for more information please see point 5. A. above.</p>
<p>E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant</p>	<p>No, the Office does not adopt a decision to that effect. However, the Office always informs the complainant about the fact that it does not intend to pursue the complaint (and gives reasons) or that the complaint does not fall within the</p>

<p>explaining its reasons?</p>	<p>competence of the Office (when it does not concern anti-competitive conduct). The Office also tries to refer the complainant to the competent agency.</p> <p>Also see point 5. A. above.</p>
<p>F. Is there a time limit counted from the date of receipt of a complaint by the competition agency for taking the decision on whether to investigate or reject it?</p>	<p>See point 5. A. above.</p>

6. Leniency policy⁵

<p>A. What is the official name of your leniency policy (if any)? [Please indicate its public availability.]</p>	<p>The Slovak leniency policy is officially called the Leniency Programme under Article 38 d of the Slovak Competition Act. The Article provides:</p> <p>“(1) Based on the application by a party to an agreement restricting competition within the meaning of Article 4 paragraph 1 or within the meaning of the provisions of special legislation, parties which operate on the same level of production or distribution chain, the Office shall not fine this party to the agreement if it is the first to provide on its own initiative</p> <p>a) decisive evidence on such violation or was the first to apply for reservation of ranking and submits such evidence within the time limit set by the Office and fulfils the conditions for the participation in the leniency programme, or</p> <p>b) information and evidence decisive for conducting an inspection pursuant to the Article 22a which should lead to acquisition of decisive evidence enabling to prove such violation, or was the first to apply for reservation of a place and submits such information and evidence within the deadline set by the Office and fulfils the conditions for the participation in the leniency programme.”</p>
<p>B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction / fine), depending on the case?</p>	<p>Under the Slovak jurisdiction both full leniency (see point 6. A. above) or partial leniency (up to 50% - see this point below) are possible.</p> <p>Article 38 d par. 2 of the Slovak Competition Act specifies, that based on the application by the party to an agreement restricting competition according to Article 4 paragraph 1 or according to the provisions of special legislation, parties which operate on the same level of production or distribution chain, the Office may reduce a fine that it would otherwise impose pursuant to the Article 38 paragraph 1 by up to 50% if the party</p>

⁵ For the purposes of this template the notion of 'leniency' covers both full leniency and a reduction in the sanction or fines. Moreover, for the purposes of this template terms like 'leniency' 'amnesty' and 'immunity' are considered as synonyms.

	<p>to the agreement on its own initiative provides the Office with the evidence of significant added value in addition to the evidence the Office already has at its disposal which, in combination with information and evidence already available to the Office, enable the Office to prove a violation of the prohibition pursuant to Article 4 paragraph 1 or special legislation; and if this party to the agreement fulfils the conditions for the participation in the leniency programme.</p>
<p>C. Who is eligible for full leniency [only for the first one to come forward or for more participants in the cartel]?</p>	<p>The conditions for participation in the leniency programme based on an application according to paragraph 1 are that the applicant</p> <ul style="list-style-type: none"> a) terminated its involvement in the agreement restricting competition at the time when it provided evidence according to paragraph 1 subparagraph a) or b) at the latest, except involvement in the agreement restricting competition based on the Office's approval if it is necessary for preserving the integrity of inspections; b) did not force another undertaking to take part in the agreement restricting competition; c) provided the Office with all the evidence that comes into the applicant's possession and properly cooperated with the Office throughout the entire investigation and proceedings; d) did not inform other parties to the agreement on submission of application and its content <p>The conditions for participation in the leniency programme based on application according to paragraph 2 is that the applicant</p> <ul style="list-style-type: none"> a) terminated its involvement in the agreement restricting competition at the time when it provided evidence according to paragraph 2 at the latest, except involvement in the agreement restricting competition based on Office's approval if it is necessary for preserving the integrity of inspections; b) provided the Office with all the evidence that comes into the applicant's possession and properly cooperated with the Office throughout the entire investigation and proceedings; c) did not inform other parties to the agreement on submission of application and its content. <p>(Article 38 d par. 3 and 4 of the Slovak Competition Act respectively).</p>
<p>D. Is eligibility for leniency dependent on the enforcing agency having either no knowledge of the cartel or insufficient knowledge of the cartel to initiate an investigation?</p> <p>In this context, is the date (the moment) at which participants in the cartel come forward with information (before or after the opening of an</p>	<p>The evidence needs to be submitted on the cartel participants' own initiative - that means before the AMO invites the undertaking to submit a piece of evidence and before the AMO has the decisive evidence proving the agreement restricting competition.</p> <p>Whether an investigation or proceedings have been initiated at the time the undertaking submitted decisive evidence in the matter is not crucial, however, it also depends on what stage the investigation is at and what evidence is already available to the AMO.</p>

<p>investigation) of any relevance for the outcome of leniency applications?</p>	
<p>E. Who can be a beneficiary of the leniency program (individual / businesses)?</p>	<p>Only businesses (or legal persons) can benefit from leniency, not individuals.</p> <p>According to § 86 (1) d) of the Penal Code the criminality of the crime expires if the crime is an abuse of participation in a competition according to § 250 if the offender's conduct enabled a business or other legal entity to qualify for leniency under the law governing the protection of competition.</p> <p>Additionally, the Penal Code also provides for immunity from criminal liability in cases of effective regret of a natural person that helped to discover the offense of an entrepreneur and the entrepreneur was found guilty.</p>
<p>F. What are the conditions of availability of full leniency: [e.g. provide decisive evidence, maintain cooperation throughout, not to be the ringleader, cease the infringement, restitution, etc.]</p>	<p>See points 6. A. and 6. C. above.</p>
<p>G. What are the conditions of availability of partial leniency (such as reduction of sanction / fine / imprisonment): [e.g.: valuable, potential, decisive evidence by witnesses or on basis of written documents, etc.? Must the information be sufficient to lead to an initiation of investigations?]</p>	<p>See points 6. B. and 6. C. above.</p>
<p>H. Obligations for the beneficiary after the leniency application has been accepted: [e.g. ongoing, full cooperation with the investigating agency during the proceedings, etc.]</p>	<p>See points 6. A., B. and C. above.</p>
<p>I. Are there formal requirements to make a leniency application? [e.g. must applications take a particular form or include particular information/data, must they be in writing or can they be made orally, etc.]</p>	<p>According to Article 38 d par. 7 of the Slovak Competition Act, the details of submitting applications for using leniency programme, applications for reservation of ranking, particulars of these applications, conditions for participation in leniency programme and procedure of the Office following the application for using leniency programme shall be determined by the general legal regulation issued by the Office.</p> <p>In this case, it is the Decree No. 172/2014 of the Antimonopoly Office of the Slovak Republic, which lays down the details on leniency programme (available at</p>

	http://www.antimon.gov.sk/data/files/405_172_2014-decree-laying-down-details-of-leniency-programme.pdf).
J. Are there distinct procedural steps within the leniency program? [e.g.: provisional guarantee of leniency ("PGL") and further steps leading to a final leniency agreement / decision)?]	See point 6. I. above.
K. At which time during the application process is the applicant given certainty with respect to its eligibility for leniency, and how is this done?	<p>The AMO verifies the eligibility of the leniency applicant based on the abovementioned conditions and confirms its findings via an official letter, at any stage of the administrative procedure.</p> <p>However, as Article 38 d par. 5 of the Slovak Competition Act reminds, the AMO monitors the fulfilment of conditions for participation in the leniency programme according to par. 3 and 4 since submission of the application until issuing the final decision in the matter.</p>
L. What is the legal basis for the power to agree to grant leniency? Is leniency granted on the basis of an agreement or is it laid down in a (formal) decision? Who within the agency decides about leniency applications?	<p>The legal basis for the power to agree to grant leniency can be found in Article 38 d of the Slovak Competition Act.</p> <p>Leniency is laid down in the decision of the case on the merits.</p> <p>The answer to the question about who decides about leniency application depends on what instance the proceedings are at when the application is received.</p>
M. Do you have a marker system? If yes, please describe it.	<p>Yes, the Slovak marker system is described in detail in the Decree No. 172/2014 of the Antimonopoly Office of the Slovak Republic, which lays down the details on the applications for reservation in its Article 2 (available at http://www.antimon.gov.sk/data/files/405_172_2014-decree-laying-down-details-of-leniency-programme.pdf).</p>
N. Does the system provide for any extra credit⁶ for disclosing additional violations? [e.g. a hardcore cartel in another market]	No.
O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.	<p>No.</p> <p>However, Article 40 par. 3 of the Slovak Competition Act provides that until sending the statement before issuing the decision, the parts of the file containing application for non-imposing a fine or for its reduction pursuant to the Article 38d, as well as other documents and information which have been provided to the Office in this connection and are stored outside the file at this stage of proceedings, shall be excluded from access to the file. They become part of a file following the sending of the statement before issuing the decision.</p>

⁶ Also known as: "leniency plus", "amnesty plus" or "immunity plus". This category covers situations where a leniency applicant, in order to get as lenient treatment as possible in a particular case, offers to reveal information about participation in another cartel distinct from the one which is the subject of its first leniency application.

<p>P. Is there a possibility of appealing an agency's decision rejecting a leniency application?</p>	<p>No, but there is a possibility to appeal the Authority's decision on the merits of the case.</p>
<p>Q. Contact point where a leniency application can be lodged [telephone and fax including the country code, plus out of hours contacts (if any)]:</p>	<p>See point 3. B. above.</p>
<p>R. Does the policy address the possibility of leniency being revoked? If yes, describe the circumstances where revocation would occur. Can an appeal be made against a decision to revoke leniency?</p>	<p>Yes, see point 6. K. above.</p> <p>Moreover, the Decree No. 172/2014 of the Antimonopoly Office of the Slovak Republic laying down details on leniency programme also partially sets out the procedure when the leniency is taken back.</p> <p>There is a possibility to appeal the Authority's decision on the merits of the case.</p>
<p>S. Does your policy allow for "affirmative leniency", that is the possibility of the agency approaching potential leniency applicants?</p>	<p>Not expressly.</p>
<p>T. Does your authority have rules to protect leniency material from disclosure? If yes, please elaborate.</p>	<p>Part Eight – Articles 40 and 41 - of the Slovak Competition Act deals with protection, access to information and maintaining confidentiality, including of leniency material.</p> <p>(1) Parties to the proceedings and their representatives have the right of access to the files, make notes and copies from them, receive file copies or obtain information from files in other way, except minutes on voting. The Office may allow access to files, notes and copies from them, may allow providing file copies or may provide information from files also to other persons if they prove legitimacy of their request. The Office provides file copies for compensation of material costs associated with making copies, obtaining technical media and their shipping.</p> <p>(2) The Office is obliged to take measures that the procedure according to paragraph 1 would not result in disclosure of confidential information, classified information, 30) bank secrecy, tax secrets, trade secrets, telecommunication secrets, post secrets or the confidentiality obligation stipulated or acknowledged by the Act would not be violated.</p> <p>(3) Until sending the statement before issuing the decision, the parts of the file containing application for non-imposing a fine or for its reduction pursuant to the Article 38d, as well as other documents and information which have been provided to the Office in this connection and are stored outside the file at this stage of proceedings, shall be excluded from access to the file. They become part of a file following the sending of the statement before issuing the decision.</p>

(4) The Office is obliged to inform the natural person and the legal person that it may indicate information or documents submitted to the Office which it considers subject to trade secret (31) or confidential information.

(5) Confidential information for the purpose of this Act is information which is neither trade secret, nor information protected pursuant to the special legislation, (32) is available only to the restricted group of persons and its disclosure would significantly harm the legally protected interest of person which has provided it or other person, including information submitted by the applicant for leniency programme, if its providing could endanger the application of procedure pursuant to the Article 38d.

(6) The Office may ask the natural person and legal person to provide written justification of indication of information and documents as trade secret or confidential information and to provide the Office with other wording of information and documents including description of protected information and documents which do not contain trade secret or confidential information. In notification of concentration pursuant to the Article 10 paragraph 7 or in notification of concentration pursuant to the Article 10 paragraph 10 the party to the proceedings is obliged to provide written justification of indication of information and documents as trade secret or confidential information and to provide separate version of notification without trade secret and confidential information including description of protected information and documents.

(7) If the Office, despite the justification according to paragraph 6, concludes that the submitted information and documents do not constitute trade secret or confidential information, it shall inform natural person or legal person in writing.

(8) The Office shall protect information and documents which constitute trade secret or confidential information. The Office shall enable the access to this information and documents only in cases deserving special consideration to the party to the proceedings or exclusively only to its representative if they constitute evidence on violation of this Act and are inevitable for purposes of benefit of counsel in the proceedings in which the access was granted, and information and documents submitted according to paragraph 6 are not sufficient for this purpose. For the purpose of the control of concentrations this provision shall apply adequately.

(9) The Office shall enable to access the information and documents which constitute trade secret or confidential information to the party to the proceedings according to paragraph 8, second sentence, only following the written consent of the person which has provided this information. If this person does not give consent, the information shall be made available exclusively to the representative of party to the proceedings. Employee of the undertaking which is party to the proceedings cannot be the representative of the party to the proceedings.

(10) With respect to the procedure according to paragraphs 8 and 9 the Office instructs the party to the proceedings or its representative in advance on confidentiality obligation with respect to facts it learned; the Office takes minutes on instruction and the party to the proceedings or its representative shall sign it. Confidentiality obligation of

	<p>representative refers both to party to the proceedings which he represents and to other persons.</p> <p>(11) The Office is obliged to disclose final decisions of the Office, notification of a concentration and if the nature of the matter does not exclude it, a notice on the initiation of proceedings regarding all other matters resulting from the provisions of this Act. For the purposes of disclosure according to this paragraph the data constituting trade secret, confidential information and information protected according to the special legislation 32) shall be excluded from the decision.</p> <p>(12) Regarding the disclosure of a notification of concentration according to paragraph 11, the Office shall always disclose the parties to the concentration, the character of the concentration pursuant to Article 9 (1), and the industry in which the concentration has been established.</p> <p>(13) The obligation of disclosure under paragraph 11 shall be considered met if the disclosure is made in the Commercial Bulletin and on the Office's official website.</p> <p>The Articles are fleshed out in the new Guidance of the Antimonopoly Office on the assessment of the protection of business secrets, confidential information and personal data, however, this is only in Slovak so far (available at: http://www.antimon.gov.sk/data/files/454_usmernenie-protimonopolneho-uradu-sr-k-posudzovaniu-ochrany-obchodneho-tajomstva-dovernych-informacii-a-osobnych-udajov-pdf.pdf).</p>
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7. Settlement

<p>A. Does your competition regime allow settlement?</p> <p>If yes, please indicate its public availability (link to the relevant rules, guidelines, etc.).</p>	<p>Yes.</p> <p>Settlement is provided for in Article 38e of the Slovak Competition Act, which states that if the facts established can sufficiently justify the conclusion that this Act or the special legislation were violated, except the violation for which the Office imposes a fine pursuant to the Article 38a and 38b, ex officio or based on a request of a party to the proceedings the Office may carry out the settlement discussions for the sake of procedural economy or with the aim to achieve prompt and efficient remedy in the market. If the party to the proceedings and the Office agree on conclusions of the settlement discussion and the party to the proceedings admits its participation in the violation and takes the liability for this participation the Office shall reduce the fine that it would otherwise be imposed pursuant to the Article 38 paragraphs 1 and 2. There is no legal claim of settlement.</p> <p>Details on conditions of fine reduction, course of settlement discussions and amount of fine reduction are determined by the general legal regulation issued by the Office in the Decree No. 171/2014 of the Antimonopoly Office of the Slovak</p>
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	<p>Republic laying down details on settlement (available at: http://www.antimon.gov.sk/data/files/413_171_2014-decree-laying-down-details-of-settlement-conditions.pdf).</p>
<p>B. Which types of restrictive agreements are eligible for settlement [e.g. hardcore cartels, other types of cartels, vertical agreements only ...]?</p>	<p>All types of violations of this Act or the special legislation, except the violation for which the AMO imposes a fine pursuant to the Article 38a and 38b (procedural fines), are eligible.</p>
<p>C. What is the reward of the settlement for the parties?</p>	<p>As Article 4 par. 1 – 2 of the Decree No. 171/2014 of the Antimonopoly Office of the Slovak Republic explain, if the discussion is concluded by settlement the Office shall reduce a fine that would be otherwise imposed on the party by 30% in the matter of agreement restricting competition pursuant to Article 4 paragraph 1 of the Act or Article 101 of the Treaty on the Functioning of the European Union concluded between the undertakings which, for the purpose of agreement restricting competition, operate on the same level of production or distribution chain, and in the matter of abuse of a dominant position pursuant to Article 8 paragraph 3 of the Act or Article 102 of the Treaty on the Functioning of the European Union.</p> <p>The Office shall reduce a fine that would be otherwise imposed on the party by 50% if the discussion is concluded by settlement in cases other than listed in paragraph 1.</p>
<p>D. May a reduction for settling be cumulated with a leniency reward?</p>	<p>Yes. According to Article 4 of the Decree No. 171/2014 of the Antimonopoly Office of the Slovak Republic if the party which proposed a settlement, simultaneously applied for reduction of fine pursuant to Article 38d paragraph 2 of the Act, its fine shall be reduced based on settlement from the fine already reduced pursuant to Article 38d paragraph 2 of the Act.</p>
<p>E. List the criteria (if there is any) determining the cases which are suitable for settlement.</p>	<p>See point 7. A. above. Settlement is usually considered for the sake of procedural economy or with the aim to achieve prompt and efficient remedy in the market.</p>
<p>F. Describe briefly the system [who can initiate settlement – your authority or the parties, whether your authority is obliged to settle if the parties initiate, in which stage of the investigation settlement may be initiated, etc.].</p>	<p>See point 7. A. The system is described in the Decree No. 171/2014 of the Antimonopoly Office of the Slovak Republic.</p> <p>Settlement can be initiated either by the parties or the AMO. The AMO is not obliged to settle in any case. Settlement can be initiated in the proceedings initiated pursuant to Article 25 par. 1 of the Slovak Competition Act.</p>
<p>F. Describe the procedural efficiencies of your settlement system [e.g. shorter decision, etc.].</p>	<p>See points 7. A. and 7. E. above.</p>
<p>G. Does a settlement necessitate that the parties acknowledge their liability for the violation?</p>	<p>Yes.</p>
<p>H. Is there a possibility for settled parties to appeal a settlement decision at court?</p>	<p>Yes.</p>

8. Commitment

<p>A. Does your competition regime allow the possibility of commitment?</p> <p>If yes, please indicate its public availability [link to the relevant rules, guidelines, etc.].</p>	<p>Yes.</p> <p>Commitments are provided for in Article 38 f of the Slovak Competition Act, which states that the Office may terminate proceedings in the matter of violation of the prohibition of agreements restricting competition, prohibition of abuse of a dominant position or in the matter of other forms of unlawful restriction of competition by means of a decision imposing on a party to the proceedings the requirement to fulfil the commitments submitted by the party to the proceedings to the Office for the purpose of elimination of possible competition concerns. The Office may issue this decision for a specific time period. There is no legal claim of issuing such decision.</p> <p>A party to the proceedings may submit commitments no later than the expiry of the time period for responding to the statement before issuing a decision pursuant to the Article 33 expires and the Office shall disregard the commitments submitted later. The Office may test the submitted commitments through direct addressing of natural persons and legal persons, publishing or in other form.</p> <p>The Office may modify or reverse a decision referred to in paragraph 1 ex officio if</p> <ul style="list-style-type: none">a) the conditions that were decisive for issuing the decision substantially changed after the issuance of the decision;b) the party to the proceedings fails to comply with the commitments imposed by the Office's decision; <p>or</p> <ul style="list-style-type: none">c) information provided by the party to the proceedings, which was decisive for issuing the decision, was incomplete or false. <p>Proposal of commitments submitted pursuant to the paragraph 1 may include also the obligation to appoint the independent trustee at the expenses of the party to the proceedings and the way of his/her appointment; provision of the Article 12, paragraph 8 shall apply accordingly.</p>
<p>B. Which types of restrictive agreements are eligible for commitment [e.g. hardcore cartels, other types of cartels, vertical agreements only ...]?</p> <p>Are there commitments which are excluded from the commitment possibility?</p>	<p>The Slovak law or guidelines do not specify this.</p>
<p>C. List the criteria (if there are any) determining the cases which are suitable for commitment.</p>	<p>The Slovak law or guidelines do not specify this.</p>
<p>D. Describe, which types of</p>	<p>Both behavioural and structural commitments are possible.</p>

commitments are available under your competition law.[e.g.: behavioural / structural]	
E. Describe briefly the system [who can initiate commitment – your authority or the parties, in which stage of the investigation commitment may be initiated, etc.]	The Slovak law or guidelines do not specify this.
I. Does a commitment decision necessitate that the parties acknowledge their liability for the violation?	No.
J. Describe how your authority monitors the parties' compliance to the commitments.	Of course, AMO monitors the commitments. The experience of the AMO is limited concerning commitment decisions.
K. Is there a possibility for parties to appeal a commitment decision at court?	Yes.

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

A. Briefly describe the investigative measures available to the enforcing agency such as requests for information, searches/raids ⁸ , electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.	<p>The powers of the AMO are set out in Part Four of the Slovak Competition Act and are enumerated in Article 22 par. 1. The AMO can:</p> <ul style="list-style-type: none"> a) conduct investigation in particular sectors of the economy in order to obtain information on state of competition in the sector; b) conduct investigation to establish whether there is a reason to initiate the proceedings pursuant to this Act; c) conduct investigative actions and other actions of legal aid at the request of the competition authority of another state pursuant to special legislation or pursuant to the international treaty by which is the Slovak Republic bound; d) issue a decision that an undertaking's conduct or activity is prohibited pursuant to this Act or special legislation; decide on imposing the obligation to refrain from such conduct and the obligation to remedy the unlawful state; e) issue a decision that this Act has been violated by a state administration authority in the exercise of state administration, by a municipality or self-governing region in the exercise of
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⁷ "Enforcing institutions" may mean either the investigating or the decision-making institution or both.

⁸ "Searches/raids" means all types of search, raid or inspection measures.

self-governance and transferred state administration, and professional self-governance body in the exercise of transferred state administration, decide on imposing the obligation to refrain from such conduct and the obligation to remedy the unlawful state of affairs;

f) proceed and decide on all matters regarding the protection of competition ensuing from the provisions of this Act or special legislation;

g) oversee the compliance with the decisions issued within the proceedings before the Office;

h) issue an opinion according to special legislation;

i) ensure international relations in the area of protection of competition at the level of authorities having jurisdiction over this area;

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

k) submit an application to the court for approving an inspection for the performance of its activities according to Article 22a paragraph 8;

l) propose further measures for the protection and promotion of competition;

m) issue an approval with the person of trustee or appoint the trustee according to Article 12 paragraph 8 and Article 38f paragraph 4;

n) provide the court with an opinion on the request for submitting evidence from his file, on the adequacy of such a proposal, on the question of disclosure in court proceedings for damages according to special legislation and within the scope of his jurisdiction provides further cooperation of the court in the damages action if considers it appropriate.

Par. 2 also allows the AMO, in connection with the performance of duties pursuant to this Act and special legislation, to request undertakings, senior employees of an undertaking, statutory bodies of an undertaking, supervisory bodies of an undertaking or members of these bodies of an undertaking or other employees of an undertaking (hereafter referred to as "employees of an undertaking"), as well as other natural persons and legal persons to provide information and documents necessary for the Office's activities, regardless of the medium on which they are recorded, and make copies of and notes of these documents or request their officially certified translations into the Slovak language, request written or oral explanation with the possibility to make its audio record. These entities are obliged to provide the Office with this information and documents free of charge in the time limit stipulated by the Office; in case of classified information under the conditions set by the special legislation.

When fulfilling the obligations pursuant to this Act or special legislation, the AMO shall have the right according to par. 3 to request the police department or the authorities involved in criminal proceedings to provide information acquired according to the special legislation, above all it shall have right of access to the files kept within the criminal proceedings, make excerpts

and notes from the files and make copies of files or their parts at its own expenses and use them for the purposes pursuant to this Act.

Par. 4 states that on a basis of international treaty by which the Slovak Republic is bound or on the basis of consent of a person which has provided information or to which information refers, the Office shall provide information to the competition authorities of other states for the purposes necessary to apply the competition law in these states, including information protected pursuant to this Act or pursuant to the special legislation. The Office may provide information according to the first sentence only if reciprocity is ensured.

The powers of the AMO in relation to inspections are dealt with in Article 22 a.

(1) In the performance of duties pursuant to this Act, employees of the Office and persons entrusted with the performance of duties falling within the Office's power (hereinafter referred to as "employees of the Office") shall have the right, on the basis of written authorisation (hereinafter referred to as "authorisation"), to enter any premises and means of transport of the undertaking, which are related to the activities or conduct of the undertaking, in order to conduct an inspection.

(2) The Vice-Chairperson of the Office shall authorise employees of the Office to perform an inspection within investigation and within the first-instance proceedings; the Chairperson of the Council shall authorise the employees of the Office within the proceedings before the Council. Authorisation shall contain name, surname and position of the person issuing an authorisation, indication of the undertaking in premises and means of transport of which the inspection will be conducted, time period of the inspection, subject and purpose of the inspection, name and surname of the employee of the Office authorised to conduct an inspection, instruction on rights and obligations of the undertaking whose premises and means of transport will be inspected, signature of the person issuing the authorisation, authorisation number and the Office's stamp.

(3) Conducting an inspection the employee of the Office shall prove his/her identity by the authorisation pursuant to the paragraph 2, copy of which he/she presents to the undertaking or any employee of undertaking in premises and means of transport of which the inspection will be performed.

(4) Minutes of the inspection shall be prepared by the employees of the Office. The inspection shall be deemed completed after signing the minutes. Inspection shall be deemed completed even if some of the persons present during the inspection refuse to sign the minutes; grounds for refusal shall be given in minutes. From the objective reasons the Office may interrupt the inspection for the necessary time, even repeatedly.

(5) In order to obtain documents and information stipulated in the Article 22 paragraph 2, employees of the Office shall have the right during the inspection and in the case of classified information in compliance with the conditions set by the special

legislation:

a) to seal documents or media on which information is recorded, to seal the premises and their equipment, also means of transport for the period and to the extent necessary for the inspection;

b) to take away documents and media on which information is recorded for the necessary time with the aim of making copies or gaining access to information if the Office is unable, primarily for technical reasons, to gain access to information or make copies of documents during the inspection;

(c) to ensure the entry to the undertaking's premises and means of transport, to open closed premises and their equipment or otherwise provide access to documents and media on which information is recorded; the Office is entitled to invite other persons able to ensure overcoming the obstacle,

(d) to ensure the access to all information which has been stored in any electronic form on data storage of the undertaking or which were created in any electronic form by the undertaking or which the undertaking may access in connection with its activity, including information which is stored in any electronic form on data storage of other entities and the undertaking may access them and use them for its activity; to ensure the access to these media the Office is entitled to invite other persons capable to ensure such access, but they are not entitled to access the information.

(6) Employees of the Office have the right to make copies of any information in documentary form, all computer data and information stored in any electronic form on data storage pursuant to the paragraph 5 subparagraph d).

(7) For the purpose of conducting an inspection and in the course of inspection an undertaking is obliged to:

a) allow the entry pursuant to paragraph 5 subparagraph c);

b) cooperate with employees of the Office, to provide necessary collaboration and to allow proper conduction of the inspection;

c) enable its employee to give explanation and to submit documents and information necessary for the Office regardless the medium on which it is recorded;

d) ensure the access to all documents, information and data in electronic form;

e) ensure that the seal is intact pursuant to the paragraph 5 subparagraph a).

(8) If a reasonable suspicion exists that the information or documents related to the activities or conduct of an undertaking based on which a serious restriction of competition may be proven, are located in the premises or means of transport other than those listed in paragraph 1, as well as in private premises or private means of transport of the present or former undertaking's employees, the Office may inspect these premises based on court's approval of the inspection issued at a proposal of the Office. The Office shall deliver the court's approval of the inspection to the person whose premises will be inspected at the beginning of the inspection. If the person whose premises will be inspected is not present, the Office shall leave the court's approval of the inspection, along with the

	<p>copy of the minutes of the inspection, with the post Office within 24 hours after the inspection.</p> <p>(9) The Office shall invite a custodian appointed by the court that has decided on the approval of an inspection to attend the inspection according to paragraph 8.</p> <p>(10) Paragraphs 4 to 7 with the exception of sealing the premises and means of transport shall be used for conducting an inspection pursuant to paragraph 8.</p> <p>(11) At the request of the Office the police department is required to provide protection and cooperation to the employees of the Office in the performance of duties according to this Act or, at the request of the Office, also to employees of other competition authorities responsible for the implementation of the provisions of special legislation if they participate in an inspection according to paragraph 1 or 8, or to employees of the Commission and persons authorised by the Commission when performing duties pursuant to special legislation.</p> <p>Unless specifically mentioned, the measure does not require the AMO to obtain a court warrant.</p>
<p>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this require authorisation by a court?</p>	<p>Yes, see 9. A. above.</p>
<p>C. May evidence not falling under the scope of the authorisation allowing the inspection be seized / used as evidence in another case? If yes, under which circumstances (e.g. is a post-search court warrant needed)?</p>	<p>No.</p>
<p>D. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.</p>	<p>The undertakings usually take matters to court after an inspection. The courts have the power to order the destruction of evidence obtained via an inspection and therefore undoubtedly form and interpret the legal provisions.</p>

10. Procedural rights of businesses / individuals

<p>A. Key rights of defence in cartel cases: [e.g.: right of access to documents in the possession of the enforcing authority, right to a written</p>	<p>According to Act No. 71/1967 Coll. Public Administrative Procedures the parties to the proceedings have the:</p> <ul style="list-style-type: none"> -right to access the documents in the relevant proceedings -right to written or oral statements
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<p>statement of the case against the defendant, right to respond to that case in writing, right to respond orally, right to confront companies or individuals that make allegations against the defendant, right to legal representation before the enforcing authorities, right not to self-incriminate, etc.] Please indicate the relevant legal provisions.</p>	<p>-right to legal representation before the AMO -right not to self-incriminate</p> <p>According to Article 33 of the Slovak Competition Act the Office is required, before issuing a final decision, to invite the parties to the proceedings to express in oral or written form their views on the substance and method of the decision or propose an amendment thereto, as well as to inform them on the findings of the investigation, which the Office has reached on the basis of available information and documents.</p> <p>Article 40 also sets out some of the rights of the parties to the proceedings and their representatives – rights of access to the files, to make notes and copies from them, receive file copies or obtain information from files in other way, except minutes on voting. The Office may allow access the files, notes and copies from them, may allow providing file copies or may provide information from files also to other persons if they prove legitimacy of their request. The Office provides file copies for compensation of material costs associated with making copies, obtaining technical media and their shipping. The rest of Article 40 and Article 41 strive to make sure the parties' information is protected, the right kind of balance is struck when access to information is concerned and that confidentiality is maintained.</p> <p>And of course, the administrative bodies are obliged to respect the rights entrenched in the Constitution and the agreements the Slovak Republic is bound by.</p>
<p>B. Protection awarded to business secrets (competitively sensitive information): is there a difference depending on whether the information is provided under a compulsory legal order or provided under informal co-operation? Please indicate the relevant legal provisions.</p>	<p>Business secrets are awarded protection by the virtue of Article 40 of the Slovak Competition Act.</p> <p>Par. 2 states that the Office is obliged to take measures that the procedure according to paragraph 1 would not result in disclosure of confidential information, classified information, bank secrecy, tax secrets, trade secrets, telecommunication secrets, post secrets or the confidentiality obligation stipulated or acknowledged by the Act would not be violated.</p> <p>Par. 4 adds that the Office is obliged to inform the natural person and the legal person that it may indicate information or documents submitted to the Office which it considers subject to trade secret or confidential information.</p> <p>(6) The Office may ask the natural person and legal person to provide written justification of indication of information and documents as trade secret or confidential information and to provide the Office with other wording of information and documents including description of protected information and documents which do not contain trade secret or confidential information. In notification of concentration pursuant to the Article 10 paragraph 7 or in notification of concentration pursuant to the Article 10 paragraph 10 the party to the proceedings is obliged to provide written justification of indication of information and documents as trade secret or confidential information and to provide separate version of notification without trade secret and confidential information including description of protected information and documents.</p> <p>(7) If the Office, despite the justification according to paragraph</p>

	<p>6, concludes that the submitted information and documents do not constitute trade secret or confidential information, it shall inform natural person or legal person in writing.</p> <p>(8) The Office shall protect information and documents which constitute trade secret or confidential information. The Office shall enable the access to this information and documents only in cases deserving special consideration to the party to the proceedings or exclusively only to its representative if they constitute evidence on violation of this Act and are inevitable for purposes of benefit of counsel in the proceedings in which the access was granted, and information and documents submitted according to paragraph 6 are not sufficient for this purpose. For the purpose of the control of concentrations this provision shall apply adequately.</p> <p>(9) The Office shall enable to access the information and documents which constitute trade secret or confidential information to the party to the proceedings according to paragraph 8, second sentence, only following the written consent of the person which has provided this information. If this person does not give consent, the information shall be made available exclusively to the representative of party to the proceedings. Employee of the undertaking which is party to the proceedings cannot be the representative of the party to the proceedings.</p> <p>(10) With respect to the procedure according to paragraphs 8 and 9 the Office instructs the party to the proceedings or its representative in advance on confidentiality obligation with respect to facts it learned; the Office takes minutes on instruction and the party to the proceedings or its representative shall sign it. Confidentiality obligation of representative refers both to party to the proceedings which he represents and to other persons.</p> <p>(11) The Office is obliged to disclose final decisions of the Office, notification of a concentration and if the nature of the matter does not exclude it, a notice on the initiation of proceedings regarding all other matters resulting from the provisions of this Act. For the purposes of disclosure according to this paragraph the data constituting trade secret, confidential information and information protected according to the special legislation shall be excluded from the decision.</p> <p>There is no difference between information acquired via a compulsory legal order and information provided under cooperation.</p>
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11. Limitation periods and deadlines

A. What is the limitation period (if any) from the date of the termination of the infringement by which the investigation / proceedings must begin or a decision on

Article 30 of the Slovak Competition Act sets the time limit for issuing a decision. The Office shall issue a decision within six months following the date of the initiation of the proceedings. In complicated cases, the Chairperson of the Office may extend the time limit for issuing a decision before its expiry, also repeatedly, by a maximum of 24 months in total. If the Office is

<p>the merits of the case must be made?</p>	<p>unable to make a decision within six months, it is required to notify the party to the proceedings thereof in writing and state the reasons. This time limit shall not apply to the issuance of a decision pursuant to Article 11 (1) or (2).</p> <p>However, Article 38c par. 4 states that the Office may impose fines pursuant to the Article 38 paragraphs 1 and 2, Articles 38a and 38b within four years from the initiation of proceedings, no later than eight years from the day of the violation of the provisions of this Act, violation of the provisions of special legislation, the failure to fulfil a condition or the violation of an obligation or commitment imposed by a decision of the Office.</p>
<p>B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision on the merits?</p>	<p>See point 11. A. above.</p>
<p>C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an investigation or a decision regarding sanctions? (see also 15A)</p>	<p>According to Article 34 of the Slovak Competition Act a decision issued within the first instance proceedings may be appealed within 15 days following the date of delivery of the decision. The provisions of Article 22, Article 22a, Article 25 (3) to (6), Articles 27 to 33, Articles 40 and 41 shall apply to appellate proceedings accordingly. A decision on termination of the proceedings according to Article 32 (2) (a), (b), (i) and (j) may not be appealed.</p>

12. Types of decisions

<p>A. List which types of decisions on the merits of the case can be made in cartel cases under the laws listed under Section 1. [E.g.: finding of an infringement, ordering to bring the infringement to an end, imposition of fines, etc.]</p>	<p>Finding of an infringement; declaration, that an agreement is prohibited and imposition of fine - all these facts could be covered by the same decision.</p>
<p>B. List any other types of decisions on the merits of the case relevant particularly in hardcore cartel cases under the laws listed under Section 1 (if different from those listed under 12/A).</p>	<p>See point 12. A. above.</p>
<p>C. Can interim measures⁹ be ordered during the</p>	<p>According to § 43 of the Act no. 71/1967 Coll., Administrative Code, as amended, the Office is allowed, before taking a</p>

⁹ In some jurisdictions, in cases of urgency due to the risk of serious and irreparable damage to competition, either the investigator or the decision-making agency may order interim measures prior to taking a decision on the merits of the case [e.g.: by ordering the immediate termination of the infringement].

<p>proceedings in cartel cases? (if different measures for hardcore cartels please describe both¹⁰.) Which institution (the investigatory / the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?</p>	<p>decision on the merits, to order interim measures in order to attain the purpose of the procedure by:</p> <ul style="list-style-type: none"> a) ordering the participants to act in a particular way, to refrain from acting a particular way or to bear an act of a third party b) securing the objects of which there is a suspicion they may be destroyed or rendered useless or objects that could constitute evidence. <p>The Authority can revoke the interim measure when the reasons for its adoption cease.</p> <p>The appeal against the interim measure has no suspensory effect.</p>
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13. Sanctions for procedural breaches (non-compliance with procedural obligations) in the course of investigations

<p>A. Grounds for the imposition of procedural sanctions / fines [e.g. late provision of requested information, false or incomplete provision of information, lack of notice, lack of disclosure, obstruction of justice, destruction of evidence, challenging the validity of documents authorizing investigative measures, etc.]:</p>	<p>The grounds for the imposition of procedural sanctions/ fines are set out in Articles 38a and 38b of the Slovak Competition Act.</p> <p>Article 38 a provides:</p> <p>(1) For the violation of the obligation to submit the requested documents or information to the Office within the specified deadline, for the submission of false or incomplete documents or information, or for not allowing the Office to examine them, the Office shall impose</p> <ul style="list-style-type: none"> a) a fine of up to 1% of its turnover pursuant to the Article 3 (5) for the preceding accounting period on an undertaking or legal person who is not undertaking; b) a fine of up to EUR 1 650 on a natural person who is not undertaking. <p>(2) The Office shall impose on an undertaking whose premises or means of transport should have been or had been inspected for the violation of the obligation referred to in</p> <ul style="list-style-type: none"> a) the Article 22a paragraph 7 subparagraph a) or subparagraph e) a fine of up to 5% of its turnover pursuant to the Article 3 paragraph 5 for the preceding accounting period; b) the Article 22a paragraph 7 subparagraphs b) to d) a fine of up to 1% of its turnover pursuant to the Article 3 paragraph 5 for the preceding accounting period. <p>(3) The Office shall impose on a natural person whose private premises or private means of transport should have been or had been inspected pursuant to the Article 22a paragraph 8,</p>
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¹⁰ Only for agencies which answered "yes" to question 2.B. above

	<p>for the violation of the obligation referred to in</p> <p>a) the Article 22a paragraph 7 subparagraph a) or subparagraph e) a fine of up to EUR 80 000;</p> <p>b) the Article 22a paragraph 7 subparagraphs b) to d) a fine of up to EUR 25 000.</p> <p>Article 38b provides:</p> <p>The Office may impose a fine of up to EUR 3 300 for failure to attend, without significant reasons, a hearing, for failure to fulfil the obligation pursuant to the Article 25, paragraph 5 or the Article 29, paragraph 1 or for interfering with the progress of the proceedings otherwise.</p>
B. Type and nature of the sanction (civil, administrative, criminal, combined; pecuniary or other):	The sanctions are administrative.
C. On whom can procedural sanctions be imposed?	See point 13. A. above.
D. Criteria for determining the sanction / fine:	See point 13. A. above.
E. Are there maximum and / or minimum sanctions / fines?	See point 13. A. above

14. Sanctions on the merits of the case

<p>A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined):</p> <p>On whom can sanctions be imposed? [E.g.: representatives of businesses, (imprisonment for individuals), businesses, in the case of associations of companies the associations or the individual companies?]</p>	<p>The AMO imposes administrative sanctions pursuant to Article 38 of the Slovak Competition Act on these parties:</p> <p>(1) For</p> <p>a) the violation of the prohibition of the agreement restricting competition;</p> <p>b) the violation of the prohibition of abuse of a dominant position;</p> <p>c) failure to notify a concentration prior to exercising the rights and obligations resulting from a concentration;</p> <p>d) violation of the prohibition to exercise the rights and obligations resulting from a concentration unless the Office has granted an exemption pursuant to Article 10 (14), or</p> <p>e) failure to comply with a decision of the Office,</p> <p>the Office shall impose on an undertaking a fine of up to 10% of its turnover pursuant to Article 3 paragraph 5 for the preceding accounting period unless Article 38d provides otherwise.</p>
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	(2) For the violation of the prohibition pursuant to Article 39, the Office shall impose a fine of up to EUR 66 000 on a municipality, self-governing region or professional self-governance body.
B. Criteria for determining the sanction / fine: [e.g.: gravity, duration of the violation, benefit gained from the violation]	Article 38 par. 3 of the Slovak Competition Act says: When imposing a fine pursuant to the paragraph 1 and 2, the Office shall consider the gravity and duration of the violation. When assessing the gravity of the violation, the Office shall consider its nature, possibly impact on the market and the size of the relevant market. In addition to these criteria, the Office shall also consider other facts with respect to imposing a fine, especially a repeated violation, refusal to cooperate with the Office, position of a leader or initiator of the violation, or failure to fulfil an agreement restricting competition in practice. When imposing a fine, the Office may also consider as a mitigating circumstance the fact that the damage was reimbursed on the basis of a mediation agreement or out of court settlements before the decision to impose a fine was issued.
C. Are there maximum and / or minimum sanctions / fines?	See point 14. A. above.
D. Guideline(s) on calculation of fines: [name and reference number, availability (homepage address) and indication of the languages in which these materials are available]	Guidelines on the procedure for setting the fines in cases of abuse of dominant position and agreements restricting competition Homepage address: www.antimon.gov.sk Languages: Slovak only
E. Does a challenge to a decision imposing a sanction / fine have an automatic suspensory effect on that sanction / fine? If it is necessary to apply for suspension, what are the criteria?	Yes, according to Article 55, par. 1 of the Act No. 71/1967 Coll. on Administrative Proceedings, as amended: "If the special act does not appoint otherwise, an administrative challenge submitted in a timely manner has a suspensory effect." However, the suspensory effect is not automatic – the parties have to apply for it.

15. Possibilities of appeal

A. Does your law provide for an appeal against a decision that there has been a violation of a prohibition of cartels? If yes, what are the grounds of appeal, such as questions of law or fact or breaches of procedural requirements?	Yes, Articles 34 and 35 of the Slovak Competition Act deal with appeals. Additionally, after the Council of the AMO issues a final decision, it is possible to complain to a court. A condition for that is that the administrative appeal had been used first.
B. Before which court or agency should such a challenge be made? [if the answer to	The Council of the Office shall decide on appeals and review decisions outside of appellate proceedings. The judgement of the Regional Court in Bratislava is the

question 15/A is affirmative]

subject to review by the cassation court which is the [Supreme Court of Slovak Republic](#).