

Law No. LXXXVI of 1990 on the Prohibition of Unfair Market Practice

(of November 20, 1990)*

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General Provisions

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** ** Added by WIPO.

1. The effect of this Law shall extend—unless otherwise provided by a separate law—to the economic activities of entrepreneurs on the territory of the Hungarian Republic.

2. For the purposes of this Law:

(a) “entrepreneurs” means legal entities, economic corporations without legal personality and other corporations, and natural persons, engaging in economic activity;

(b) “economic activity” means the conduct as a business of a production or service activity against remuneration with a view to making a profit and generating capital;

(c) “competitors” means entrepreneurs interested in economic competition;

(d) “consumers” means customers, buyers and users.

3.— (1) Entrepreneurs shall respect the freedom and fairness of economic competition.

(2) It is prohibited to engage in economic activity in a dishonest manner—particularly in a manner that offends or jeopardizes the legitimate interests of rivals and consumers or is contrary to the demands of business integrity.

Part I Prohibition of Unfair Market Practice

Chapter I Prohibition of Unfair Competition

4. It is prohibited to hurt or jeopardize the reputation or credibility of a competitor by making or spreading false allegations, by presenting true facts in the wrong light or by any other conduct.

5.— (1) It is prohibited to obtain or use a business secret in a dishonest manner or to reveal it to others or publish it without authorization.

(2) It shall also be regarded as obtaining a business secret in a dishonest manner if the business secret has been obtained, without the consent of the authorized person, through the collaboration of a person having relations of trust or business dealings with him.

(3) For the purposes of this Law:

(a) “business secret” means all facts, information, solutions or data relating to economic activities in the continuing secrecy of which the authorized person has a legitimate interest;

(b) “confidential relations” means in particular, employment relations or other legal relations entailing work and membership;

(c) “business dealings” means releasing information, conducting negotiations or making offers prior to the conclusion of a contract, even if no contract is concluded as a result.

6. It is prohibited to make a dishonest appeal to others that is expressly intended to disrupt economic relations with a third party or to hinder the establishment of such relations.

7. It is prohibited to manufacture or distribute goods and services (hereinafter referred to as “goods”) without the consent of a competitor when the characteristic appearance, packaging or designation—including the indication of provenance—or the name, designation or mark are used by which the said competitor or his goods are typically recognized.

8. It is prohibited to withdraw or withhold goods prior to a planned price increase or for the purpose of bringing about a price increase.

9. It is prohibited to make the supply or acceptance of goods contingent on the supply or acceptance of other goods.

10. It is prohibited to violate the fairness of tenders, auctions or stock exchange business in any way.

Chapter II Prohibition of Consumer Deception

11.— (1) It is prohibited to deceive consumers in order to increase the demand for goods.

(2) The following in particular constitute consumer deception:

(a) assertion of untrue facts or of true facts in a manner liable to deceive as to the essential characteristics of goods—especially regarding their composition, use, effect on health and on the environment, as well as their treatment, origin and place of origin, provenance or mode of acquisition—or provision of other deceptive or inadequate information on the essential characteristics of the goods;

(b) comparison of goods in a manner liable to deceive and publication of the comparison in other advertising or information material;

(c) concealment of the fact that the goods do not conform to legal specifications, State standards or the general requirements imposed in respect of goods, or that their utilization requires the observance of conditions that differ substantially from what is customary;

(d) providing the goods with trademarks liable to deceive as to their utilization or any other essential characteristics, origin, place of origin, provenance or mode of acquisition;

(e) advertising goods that are not available to consumers or are available in insufficient quantity or variety, except where the consumers are informed of the situation in the case of advertising to introduce new goods or to sell off stocks of goods that are difficult to sell.

12.— (1) Comparison of goods shall not normally be regarded as liable to deceive if the conditions of unbiased and technically informed examination have been fulfilled, if the examination is based on published comparative data and if the essential characteristics, prices and pricing criteria of the goods compared have been published.

(2) Even in the case provided for in paragraph (1), a comparison of goods is liable to deceive if it quotes the result of the examination out of context and in a tendentious and one-sided manner.

13. The criterion for establishing whether a statement is liable to deceive shall be its accepted meaning either in everyday life or in the relevant trade, as the case may be.

Chapter III Prohibition of Agreements Restricting Economic Competition

14.— (1) Coordinated conduct or, as the case may be, agreement between competitors (hereinafter referred to as “agreement”) that could lead to the restriction or elimination of economic competition is prohibited, except as provided in Articles 15 to 17, irrespective of whether or not the agreement was concluded on the territory of the Hungarian Republic.

(2) This prohibition shall in particular apply to the fixing of prices of goods, the apportionment of market shares or exclusion of certain consumer groups from obtaining or marketing goods, the limitation of the choice of sources of supply or sales outlets, the restriction of the supply of goods, the obstruction of technical development or of access to markets and the placing of market participants at a disadvantage.

(3) It is prohibited to specify resale prices in a contract except as provided in Articles 15 to 17—if this could lead to the restriction or elimination of economic competition.

15. An agreement is not prohibited:

- (a) if it is intended to prevent abuse of economic superiority;
- (b) if it is of minor significance.

16.— (1) An agreement is of minor significance if on the market concerned the contracting parties' overall share of the goods that form the subject matter of the agreement does not exceed 10 percent. This condition must be met for as long as the agreement is in force and in every calendar year if it is in force for more than a year.

(2) The market concerned is the area affected by the consequences of the restriction or elimination of competition. The market concerned shall be determined according to the goods that form the subject matter of the agreement and the geographical area.

(3) Account shall be taken not only of goods that form the subject matter of the agreement, but also of other goods that may reasonably be substituted for them.

(4) The geographical area is territory outside which:

(a) the consumer is either unable to procure the goods or only able to procure them under considerably less favorable conditions;

(b) the seller of the goods is either unable to market the goods or only able to market them under considerably less favorable conditions.

17.— (1) The agreement shall be released from prohibition under Article 14 if:

(a) the resulting restriction or elimination of economic competition does not go beyond the extent necessary for the attainment of economically justified common goals;

(b) the resulting advantages outweigh the resulting disadvantages.

(2) For the purposes of the release of the agreement from the said prohibition, the following in particular shall qualify as advantages:

(a) favorable structuring of prices;

(b) improved quality of the goods, or a lasting guarantee that the present high quality will be maintained;

(c) improved implementation of the agreement (e.g., shorter delivery periods);

(d) shortened delivery route, more rationally structured purchase and sales organization, improved supply of the goods concerned;

(e) furtherance of technical and technological development, improved environmental protection or competitiveness on foreign markets.

(3) For the purposes of the release of the agreement from the said prohibition, it shall in particular be considered a disadvantage if on the market concerned the contracting parties' overall share of the goods that form the subject matter of the agreement exceeds 30 percent during the validity of the said agreement.

18.— (1) The parties planning to conclude an agreement may apply to the competition control body (Article 52) for a decision declaring the planned agreement immune to prohibition by virtue of **Section 15** or exempted from prohibition by virtue of Article 17.

(2) Following the issue of the decision under paragraph (1), the agreement or, as the case may be, the activity of the parties in connection therewith, may not be objected to by the competition control body.

19. Proof that the agreement is immune to prohibition by virtue of Article 15 or exempted from prohibition by virtue of Article 17 shall be adduced by the person who invokes the provision concerned.

Chapter IV Prohibition of Abuse of Economic Superiority

20. It is prohibited to abuse economic superiority, particularly:

(a) in contractual relations—including the application of the general contract conditions—by imposing unjustified, one-sided advantages or forcing acceptance of disadvantageous conditions;

(b) by refusing to enter into the contract without justification;

(c) by influencing the economic decisions of the other party in order to gain unjustified advantages, notably with a view to making him forgo the assertion of his legitimate claims under the contract;

(d) by obstructing access to the market or technical development;

(e) by creating an unjustifiably adverse market situation for the competitor, or by influencing his economic decisions in order to gain unjustified advantages.

21.— (1) Economic superiority is typically possessed by one

(a) whose goods cannot be procured elsewhere, or can only be procured on considerably less favorable terms than is usual in relation to the trade and the goods concerned;

(b) who orders goods that cannot be marketed elsewhere or can only be marketed on considerably less favorable terms than is usual in relation to the trade and the goods concerned;

(c) whose share of the goods on the market concerned (Article 16(2)), during the reference period exceeds 30 percent.

(2) Those entrepreneurs also have economic superiority between whom there is no competition on the market concerned during the reference period.

(3) A maximum of three entrepreneurs whose overall share on the market concerned during the reference period exceeds 50 percent have economic superiority.

(4) In assessing economic superiority, the parties immune to prohibition by virtue of Article 15 or exempted from prohibition by virtue of Article 17 who enter into an agreement shall be taken into consideration jointly.

22. An unjustified and one-sided advantage shall in particular be assumed where there is a considerable difference in value between the service and the consideration provided for in the contract. To establish such difference, the conditions under which the contract has been concluded, the whole contents of the contract, including sales conditions, value considerations, characteristics arising from the nature of the transaction, and the manner of defining the service and the consideration, shall be examined.

Part II Supervision of Corporate Alliances

Chapter V Supervision of the Corporate Alliance of Enterprises

23.— (1) For the corporate alliance of enterprises (association, merger), preliminary authorization shall be sought from the competition control body where:

(a) the participants' overall share of the market concerned in the previous calendar year with respect to any goods sold by them exceeds 30 percent;

(b) the joint income of the participants in the previous calendar year exceeded 10 billion forints.

(2) The participants shall jointly file the application for authorization of the planned corporate alliance.

(3) If the corporate alliance of enterprises is ordered by a resolution of the State administration, the body that issues the resolution shall first consult the competition control body.

24.— (1) The competition control body may not—subject to the provisions of paragraph (2)—authorize a corporate alliance that hampers the emergence, existence or development of economic competition.

(2) Notwithstanding the provisions of paragraph (1), a corporate alliance may be authorized where:

(a) the advantages of its effect on economic competition outweigh the disadvantages;

(b) it does not preclude economic competition in respect of a substantial amount of the goods concerned;

(c) it promotes the penetration of foreign markets in a manner advantageous to the national economy.

(3) Advantages and disadvantages shall be determined according to Articles 17(2) and (3).

25. The authorization issued for a corporate alliance shall extend to whatever restrictions of competition are necessary for the implementation of the corporate alliance.

26.— (1) The rules applicable to corporate alliances shall operate even where, on the market concerned in the previous calendar year, the joint share of the entrepreneur over whom control has been gained and of the entrepreneur who has gained control exceeds 30 percent in respect of any goods marketed by them.

(2) An entrepreneur has gained control when he:

(a) has acquired over 50 percent of the stock, business shares or voting rights to secure a controlling interest in the property of the other entrepreneur;

(b) he has acquired a right to influence the decisions of the other entrepreneur or to conduct his business affairs by virtue of a special agreement.

(3) Control shall be considered gained even where it is proved to have been acquired otherwise by action on the part of the entrepreneurs.

27.— (1) Indirect participants shall also be taken into consideration in relation to the market concerned when corporate alliances of entrepreneurs and the acquisition of control are examined.

(2) An indirect participant is one

(a) who is controlled by a direct participant under Article 26(2) or (3);

(b) who controls the direct participant referred to in paragraph (a);

(c) who is controlled by an indirect participant within the meaning of paragraph (b)—other than the direct participant—referred to in paragraph (a);

(d) who controls an indirect participant within the meaning of paragraph (b), under paragraph (a).

Part III Procedural and Organizational Provisions

Chapter VI Assertion of Claims

28. Any interested party may:

- (a) institute court proceedings for infringement of the provisions contained in Chapter I;
- (b) institute court proceedings or file a plea with the competition control body for infringement of the provisions of Article 3 and Chapter II;
- (c) file a plea with the competition control body for infringement of the provisions of Chapters III to V.

29.— (1) The interested party may assert the following civil claims in particular at his discretion in the action that he brings before the court:

- (a) he may demand the acknowledgment of the violation of the law;
- (b) he may demand the cessation of the violation of the law and the prohibition of any further violations of the law on the part of the offender;
- (c) he may demand satisfaction in a statement by the offender or in another appropriate manner and, where necessary, appropriate publication of the statement or other measure by the offender or at his expense;
- (d) he may demand the elimination of the adverse situation, the restoration of the situation prior to the violation of the law or the elimination of the illegal character of the goods manufactured or marketed in violation of the law or—if that is not possible—their destruction, and the destruction of the special means whereby they were manufactured;
- (e) he may demand damages under the provisions on civil liability.

(2) If the competition control body discovers a case of unjustified refusal to enter into a contract within the meaning of Article 20(b), the interested party may in his application to the court request the making of a contract. The court may make the contract, drawing for its contents on terms that are customary in the trade.

30.— (1) No proceedings may be started—with the exception of the case provided for in Article 31—if six months have elapsed since the conduct contrary to the provisions of the law became known, but not more than three years have elapsed since the said conduct occurred. No proof may be filed because of failure to observe this time limit.

(2) Where the conduct contrary to the provisions of the law consists in some situation or state not being eliminated, the time limits under paragraph (1) shall not be calculated until that situation or state has been eliminated.

31.— (1) The competition control body or a consumer protection organization may start proceedings against a person who through his illegal activities does harm to a broad range of consumers, or a considerable amount of harm to assert the civil claims of consumers even where the identity of the consumers who suffered the harm can no longer be established.

(2) The claim mentioned in paragraph (1) shall lapse one year after the harm was done.

(3) The court may instruct the offender to reduce the price, repair the goods, exchange the goods or refund the price, as the case may be. In its judgment, the court may authorize the maker of the claim to publish the judgment in a national daily newspaper at the expense of the offender.

(4) The offender is obliged to meet the claim of the aggrieved consumer in accordance with the judgment. This shall not affect the consumer's right to assert other claims against the offender under the provisions of civil law.

Chapter VII Procedure

GENERAL PROCEDURAL RULES

32. The competition control body shall oversee the enforcement of the provisions of this Law.

33.— (1) Proceedings before the competition control body are initiated at the request of the interested party or *ex officio*. A plea may be lodged by the person harmed or liable to be harmed by the unlawful activity, and whose rights or legitimate interests are affected by the case.

(2) If proceedings are initiated at the request of the interested party, the plea must include all the particulars necessary for judging the case. If the plea does not contain the necessary particulars, the competition control body may return it once—specifying a time limit—for rectification; in that case, the time limits for processing shall be calculated from the second lodging of the plea.

34.— (1) Unless this Law provides otherwise, the provisions of Law No. IV of 1957 on the General Rules of Procedure of the State Administration shall apply to proceedings before the competition control body.

(2) Unless the law imposes another time limit, the competition control body shall deliver a ruling within 60 days. That time limit shall be calculated from the lodging of the plea in the case of proceedings initiated at the request of the interested party, from the start of the investigation in the case of proceedings initiated *ex officio* and from receipt in the case of proceedings referred by a court. The competition control body may extend the time limit once by a maximum of 60 days; the parties shall be notified prior to the expiration of the original time limit.

(3) The competition control body—including the person it has delegated to take part in the proceedings—shall keep in confidence any business secrets that come to its or his notice.

35.— (1) The procedure of the competition control body shall consist of the following stages:

(a) investigation;

(b) hearing in Council and decision-making by the Council (Article 55(1)).

(2) In justified cases the competition control body may hear the body representing the professional interests of the parties to the case and shall hear it at the request of the interested party.

36.— (1) The competition control body, or the person conducting the investigation on its behalf, is authorized, for the performance of its or his duties, under the law:

(a) to oblige the entrepreneur to disclose information —without delay according to the nature of the case—and to procure information on the premises;

(b) to conduct an investigation with the entrepreneur, including access to documents relating to economic activities, even if those contain State, service or business secrets:

(c) to copy or take extracts from the documents.

(2) The person carrying out an investigation may not seize the original documents of an entrepreneur unless there is reason to suspect a serious violation of the law, or unless there is a risk of the documents being tampered with or destroyed.

(3) The person carrying out the investigation may enter any premises of the entrepreneur, and demand either oral or written information from any of his employees.

(4) In information is needed from other entrepreneurs or State and social bodies for the purposes of the investigation, they are obliged to disclose the information and provide the requisite documents.

37.— (1) On completion of the investigation, the competition control body shall conduct a hearing in Council.

(2) The day of the hearing shall be set in such a way that the applicant and other persons involved in the case (hereinafter referred to as “parties”) have the opportunity to inspect the documents on which the investigation was based and to prepare for the hearing.

38.— (1) The parties may attend the hearing in person or delegate representatives, and may comment on observations made by the competition control body, on statements made at the hearing and on the documents submitted. They may submit their own evidence up to the completion of the hearing.

(2) The Council hearing the case is authorized, before it makes a decision, to take temporary measures should there be an immediate need for such measures to protect the legal or economic interests of the parties, or if the emergence or continued existence and development of economic competition are at risk.

(3) The hearing shall not be open to the public except in the case of proceedings in connection with a ban on the abuse of economic superiority and on consumer deception.

39.— (1) The Council hearing the case shall make a ruling after the hearing. A ruling may also be made without a hearing with the agreement of the parties. The ruling should be delivered to those involved in the case.

(2) The Council hearing the case may publish its ruling on the substance in the official journal of the Office of Economic Competition.

40.— (1) The following fees shall be payable for competition control matters—subject to the exceptions specified in paragraph (2):

(a) 1,000 forints in proceedings initiated by natural persons—not including entrepreneurs;

(b) 100,000 forints concerning corporate alliances;

(c) 10,000 forints in all other cases.

(2) No fee shall be payable for competition control proceedings if the said proceedings of the competition control body are initiated:

(a) in connection with the obligation to give prior notice of planned price increases;

(b) by referral of a case by a court for the setting of a fine (Article 47(2)).

(3) Fees under paragraph (1)(a) shall be paid in the form of stamps, and those under paragraph (1)(b) and (c) shall be paid in specie to an account specified by the Ministry of Finance. Fees for the proceedings of the competition control body shall be paid at the same time as the request for competition control proceedings is filed. In the event of failure to do so, the request shall be returned for rectification; in that case, the time limits for processing shall be counted from the renewed filing of the request.

(4) The person whose illegal conduct has been proved shall pay the fees for the proceedings. If, in connection with a corporate alliance, the proceedings were initiated on the basis of the application requesting approval of the alliance or *ex officio*, the fee shall be paid jointly by the parties involved in the corporate alliance.

(5) The provisions of special legislation shall apply to the fees for competition control proceedings where the competition control is exercised by the State Securities Inspectorate, the State Bank Inspectorate or the State Insurance Inspectorate.

(6) Where payment of the fees for proceedings represents a burden not commensurate with the income or capital of the party concerned, the competition control body may exempt him from payment of the said fees.

(7) Other costs incurred by the competition control body during the proceedings shall be advanced by the State and shall be borne by the person whose illegal conduct is proved. If no violation of law is found to have occurred, the other costs arising during the proceedings shall be borne by the person at whose request they were initiated.

41.— (1) No appeal shall lie from a ruling passed by the competition control body. The interested party may, within 30 days of notification of the ruling on the substance of the matter, apply to the court for review of the said ruling. The application for review shall be filed with the competition control body.

(2) The filing of an application for review shall have no staying effect, except in the case of a ruling on the severity of a sanction.

(3) The competition control body shall convey the application for review of one of its rulings—together with the documents relating to the case—to a court within eight days of receipt.

(4) The competition control body may publish its ruling on the substance of the case even where a court review of the said ruling has been applied for.

RULINGS OF THE COMPETITION CONTROL BODY

42.— (1) The competition control body:

(a) may apply to a court where the provisions of Articles 4 to 10 of this Law have been violated, and where the violation seriously affects or jeopardizes the fairness of competition;

(b) shall make substantive rulings in other cases.

(2) If the interested party has applied to the competition control body on account of a violation of the provisions of Articles 3 or 11 to 27, and the latter has established the existence of an act of unfair competition (Articles 4 to 10), it shall call the interested party's attention to the fact that he can take his complaint to court.

43.— (1) The competition control body may, in its ruling:

(a) establish the fact of the violation of the law;

(b) prohibit the continuation of the illegal conduct;

(c) if the illegal conduct involves a risk of prejudice, prohibit the offender from engaging in the said conduct, or oblige him to take measures necessary to avert prejudice, and where necessary to provide security;

(d) declare that the agreement to restrict economic competition (the planned agreement) does not fall under the aforesaid prohibition, or declare exemption; the ruling may be made subject to conditions under Article 17(2) and (3);

(e) grant or deny approval of the corporate alliance; such approval may be made subject to conditions;

(f) impose a sanction on those who violate the provisions of this Law;

(g) prohibit a planned price increase by virtue of the obligation of prior notification.

(2) Where the competition control body files a complaint with the court for violation of the provisions of the law, the said body may assert the civil claims provided for in Article 29(1)(a), (b) and (d).

44.— (1) The competition control body shall conclude its proceedings instituted in connection with the prohibition of the agreement restricting economic competition within 45 days from the said institution or transfer from the court. It can extend this time limit once by a maximum of 45 days; the parties shall be notified accordingly prior to the expiration of the original time limit.

(2) Where the competition control body fails to meet the time limit under paragraph (1) in the proceedings instituted under Article 18(1), the application shall be considered granted.

45.— (1) The competition control body shall notify the applicant of its ruling on his application concerning a corporate alliance within 90 days following receipt of the said application. The competition control body may extend the time limit once by a maximum of six months; the parties shall be notified accordingly prior to the expiration of the original time limit.

(2) Where the competition control body fails to meet the original or extended time limit, the application shall be considered granted.

(3) In the assessment of an application for approval, the advice of the competent Minister shall be obtained.

46. If no approval has been sought for a corporate alliance, and the alliance would not have been susceptible of approval even if an application had been sought, the competition control body shall declare the invalidity of the alliance in a ruling within 90 days of the fact of the alliance becoming known, and shall notify the parties concerned accordingly as well as the court keeping the trade register. The competition control body may extend the time limit once by a maximum of six months.

47.— (1) The competition control body shall in a ruling impose a fine on the person who violates the provisions of the law.

(2) If the court, in its ruling, finds for the violation of the provisions of the law, it shall send the said ruling to the competition control body for the imposition of a fine.

48.— (1) The amount of the fine shall be so calculated as to exceed by at least 30 percent the material advantage achieved by means of the unlawful conduct, or the amount of the damage done to consumers and competitors, but without exceeding double the amount in question. In cases deserving special consideration, the fine may be set below the 30 percent level.

(2) In the absence of unjustified material advantage or damage, the amount of the fine shall be set with due regard to all the circumstances of the case—and particularly the extent to which the interests of competition are prejudiced.

COURT PROCEEDINGS

49.— (1) The provisions of **Chapter XX** of the Code of Civil Procedure shall be applied *mutatis mutandis* in court proceedings initiated on the basis of an application for review of a ruling of the competition control body (Article 41), subject to the derogations specified in the law. The court may alter the ruling of the competition control body.

(2) Where the proceedings of the competition control body have been initiated on application, the trial for review of the ruling shall also be initiated against the applicant.

(3) The court may instruct the competition control body to start new proceedings if significant procedural violations have been committed in the competition control proceedings that cannot be

remedied in a court procedure, provided that the competition control proceedings were initiated on application.

50. Trials initiated under this Law—with the exception of the case provided for in Article 63(2)—shall be within the jurisdiction of the county courts. The Metropolitan Court shall have jurisdiction over trials under Article 49(1).

51. Where the interested party has turned to the court with his complaint over the violation of the provisions of Articles 3 to 13, and in the course of the proceedings the court establishes also:

(a) that there has been abuse of economic superiority (Articles 20 to 22), the court shall judge that question also:

(b) that there has been restriction or exclusion of economic competition (Articles 14 to 19), or an unlawful corporate alliance of entrepreneurs (Articles 23 to 27), the court shall refer the case to the competition control body with respect to those questions.

Chapter VIII Office of Economic Competition

52.— (1) The competition control assignments provided for in this Law and in the Law on Pricing—with the exceptions specified in paragraph (2)—shall be performed by the Office of Economic Competition.

(2) Competition control in the money and securities market and in insurance activities shall be exercised by the State Securities Inspectorate, the State Bank Inspectorate and the State Insurance Inspectorate; the provisions of special legislation shall be applied as to their procedure and to the legal consequences of their action.

53.— (1) The Office of Economic Competition is a publicly financed body with a national sphere of authority.

(2) The Office of Economic Competition is led by a President.

(3) The President and two Vice-Presidents of the Office of Economic Competition are appointed for a term of six years, and relieved of their duties by the President of the Republic at the proposal of the Prime Minister.

54.— (1) The terms of office of the President and Vice-Presidents of the Office of Economic Competition shall end:

(a) on expiration of the term of their appointment;

(b) on their dismissal;

(c) on their resignation;

(d) on their death.

(2) The terms of office of the President and Vice-Presidents of the Office of Economic Competition ends in dismissal where:

(a) they have committed a criminal act established in a *res judicata* sentence or have become unfit for office in other ways;

(b) they have long been unfit for office;

(c) a circumstance incompatible with their office has not been eliminated.

55.— (1) Decisions of the Office of Economic Competition shall be taken by the Competition Council, which shall meet as a Council of at least three members.

(2) The President of the Competition Council shall be one of the Vice-Presidents of the Office of Economic Competition.

(3) The members of the Competition Council shall be appointed for an indefinite period of time, and relieved of their duties, by the President of the Office of Economic Competition.

(4) The President and members of the Competition Council shall be answerable only to the Law.

56.— (1) The President, Vice-Presidents and senior officials of the Office of Economic Competition and the members of the Competition Council may not engage in any other lucrative activity—with the exception of the legal relations arising from scientific, teaching and artistic activity, from activities covered by copyright and patent protection and from editorial activities—neither may they be senior officials, directors or managers of business enterprises.

(2) The persons listed in paragraph (1) may not be close relatives of each other (Civil Code, [Article 685\(b\)](#)), and may not take part in the investigation of an entrepreneur with whom they or their relatives have working, other work-related or membership relations.

57.— (1) The occurrence of a cause of incompatibility shall be announced without delay:

(a) by the President and Vice-Presidents of the Office of Economic Competition to the Prime Minister:

(b) by senior officials of the Office of Economic Competition and members of the Competition Council to the President of the Office of Economic Competition.

(2) The person making the announcement shall eliminate the cause of compatibility within eight days of the date of the announcement.

58.— (1) The President of the Office of Economic Competition shall report to Parliament annually, or to the competent Parliamentary committee at its request but at least once a year, on the activities of the Office of Economic Competition and on his experience of the application of the law with respect to the freedom and fairness of economic competition.

(2) The President of the Office of Economic Competition shall—on being called upon to do so—submit in writing his opinion on items of the Parliamentary agenda that relate to economic competition.

59. The President of the Office of Economic Competition shall:

(a) direct the activities of the Office of Economic Competition, and ensure the observance of legal provisions;

(b) take part in the sessions of Parliament;

(c) represent the Office of Economic Competition;

(d) issue the organizational rules of the Office of Economic Competition;

(e) exercise employers' rights in relation to the employees of the Office of Economic Competition.

60. The Minister is obliged to solicit the opinion of the Office of Economic Competition on any draft legal enactment that restricts competition—particularly the pursuit of some activity or access to a market—affords exclusive rights or contains pricing rules or marketing conditions.

61.— (1) The President of the Office of Economic Competition shall take part in an advisory capacity in government meetings at which questions affecting the area of concern of the Office of Economic Competition are discussed.

(2) The Office of Economic Competition shall, at the request of the Government and Ministers, impart information on its activities, with the exception of pending competition control proceedings.

62. The Ministries, the State Property Agency, local government bodies and other State administrations shall impart information at the request of the Office of Economic Competition in connection with its competition control activities.

Final Provisions

63.— (1) Where a ruling handed down by a State administration violates the freedom of competition, the competition control body shall—with respect to the right to legal redress—be regarded as a party to any proceedings.

(2) The competition control body may appeal to the court for the review of a ruling under paragraph (1) within 30 days of any violation of the law being noted. No such legal remedy shall, however, be available when six months have elapsed since the ruling became final; no verification shall be possible where the said time limit has not been met.

64. Legal consequences imposed for violation of the provisions of the law and the enforced civil claims shall not affect the possibility of applying other civil remedies or of instituting administrative or criminal proceedings as provided in special legal enactments.

65. The competition control body may also examine agreements for the restriction or exclusion of economic competition, concluded prior to the entry into force of this Law, and may also hand down rulings under [Article 43\(2\)\(b\)](#) if the parties display conduct corresponding to the unlawful agreement even after the entry into force of the said Law.

66. Proceedings instituted for the imposition of fines that are still pending on the entry into force of this Law shall be discontinued.

67.— (1) This Law shall enter into force on January 1, 1991.

(2) At the same time as this Law takes effect.

(a) [Article 3\(6\)](#) of Law No. IV of 1957 on the General Rules of State Administrative Procedure is replaced by the following provisions:

“(6) This Law shall be applied in matters concerning national defense, the foreign currency authority, the administration of foreign trade and social insurance, and in matters governed by the Laws on the Prohibition of Unfair Market Practice and on Pricing, unless otherwise provided in a legal enactment.”

(b) [Article 321](#) of Law No. VI of 1988 on Business Enterprises is supplemented with the following provision:

“The provisions of the Law on the Prohibition of Unfair Market Practice shall be taken into consideration at the same time.”

(c) Article 10 of No. Law VI of 1977 on State Companies is supplemented with the following provision:

“In the process of alliance (affiliation, merger), the provisions on the control of corporate alliances in the Law on the Prohibition of Market Practice shall also be taken into consideration.”

(d) **Article 60(1)** of Law No. XIII of 1989 on the Restructuring of Economic Organizations and Business Enterprises is supplemented with the following provision:

“In the process of alliance (affiliation, merger), the provisions on the control of corporate alliances in the Law on the Prohibition of Unfair Market Practice shall also be taken into consideration.”

(e) **Article 45** of Law No. III of 1971 on Cooperatives is supplemented with the following paragraph (3):

“(3) In the process of alliance (affiliation, merger), the provisions on the control of corporate alliances in the Law on the Prohibition of Unfair Market Practice shall also be taken into consideration.”

(f) Law No. III of 1967 on Agricultural Production Cooperatives is supplemented with the following **Article 128A**:

“128A. In the process of alliance (affiliation, merger), the provisions on the control of corporate alliances in the Law on the Prohibition of Unfair Market Practice shall also be taken into consideration.”

(3) At the same time as this Law takes effect, the following shall be repealed:

—Law No. IV of 1984 on the Prohibition of Unfair Economic Activities;

—Council of Ministers Decree No. 32/1984 (October 31) MT on Fines, and Council of Ministers Decree No. 69/1987 (December 7) MT amending the same;

—Council of Ministers Decree No. 37/1984 (November 5) MT on Market Supervision and **Article 3** of Council of Ministers Decree No. 25/1988 (April 8) MT amending the same.
