

**REGULATION
ON CRITERIA FOR SETTING THE AMOUNT PAYABLE ON THE BASIS
OF MEASURE FOR PROTECTION OF COMPETITION AND SANCTIONS
FOR PROCEDURAL BREACHES, MANNER AND TERMS FOR PAYMENT
THEREOF AND CONDITIONS FOR DETERMINATION OF RESPECTIVE
MEASURES**

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Article 1

This Regulation shall in more details stipulate the criteria for setting the amount payable on the basis of measure for protection of competition and sanctions for procedural breaches, manner and terms for payment thereof and conditions for determination of measure for protection of competition, measure for elimination of competition infringement, i.e. other administrative measures prescribed in the Law regulating competition protection.

Article 2

Particular terms used in this Regulation, shall have the following meaning:

- 1) 'repetition of infringement by undertakings' shall mean the repetition of behavior that as an aim or consequence have or may have a significant restriction, distortion or prevention of competition, occurring after the period in which the measure for protection of competition has been imposed to the undertaking for similar conduct committed in the past;
- 2) 'incitement' shall mean a commitment of an act by which the undertaking knowingly and deliberately causes or bolsters volition of other undertaking to commit acts that as their aim or consequence have or may have a significant restriction, distortion or prevention of competition.

Article 3

The criteria determining the amount payable on the basis of measure for protection of competition and procedural breaches, are following:

- 1) undertaking's intent to commit infringement of competition, provided that as the mitigating circumstance on behalf of undertaking shall be taken the fact that the said was aware that action taken may violate competition but carelessly assumed it will not happen, or when the said was unaware that his action may violate competition, but under the circumstances of performed activities and with respect to his features was obliged and should have been aware of the possibility;
- 2) gravity, consequence and duration of infringement, provided that as the mitigating circumstance on behalf of undertaking shall be taken the fact that the act performed caused extremely short-lived or very minor infringement of competition, or absence of adverse effects of competition infringement behavior, or minor scale violation of competition;
- 3) repetition of infringement by an undertaking;

- 4) incitement of other undertakings to commit acts that as their aim or consequence have or may have a significant restriction, distortion or prevention of competition;
- 5) suspension period of behavior representing infringement of competition, provided that as the mitigating circumstance on behalf of undertaking shall be taken the fact that behaviors representing infringement of competition are suspended prior to gaining awareness that the violation of competition was detected, or prior to taking of the procedural competence pursuant to the law regulating protection of competition;
- 6) taking of measures for removal of consequences caused by competition infringement, provided that as the mitigating circumstance on behalf of undertaking shall be taken the fact that the said took actions that significantly removed caused consequences of competition infringement, and prior to taking of the procedural competence pursuant to the law regulating protection of competition;
- 7) cooperation of an undertaking in competition infringement proceedings, or prevention i.e. interference with procedural competence conducted pursuant to the law regulating protection of competition.

In addition to criteria referred to in Paragraph 1 of this Article, as a criterion for setting the amount payable on the basis of measure for procedural breaches, a significance of acting under the order in regard to the outcome of procedure that is conducted in relation to the competition infringement, and repetition of identical or similar conduct by undertakings in the same or another procedure, shall be taken into account.

Article 4

Period of payment of the amount imposed as the measure for protection of competition shall be set in the same decision stipulating respective measure, and cannot be shorter than three months, nor longer than one year from the date of receipt of the decision, pursuant to the law regulating protection of competition.

Period of payment of sanction for procedural breaches shall be set in the same decision stipulating respective measure, and cannot be shorter than one month, nor longer than three months from the date of receipt of the decision, pursuant to the law regulating protection of competition.

Period of payment of the amount referred to in Paragraph 1 and 2 of this Article shall be set depending on the financial power of undertaking to whom such measure for protection of competition i.e. sanction for procedural breach, has been imposed.

The amount of measure for protection of competition or procedural breaches shall be paid in full to the account of the budget of the Republic of Serbia, within the period defined by the decision referred to in Paragraph 1 and 2 of this Article.

As an exception, at the request of undertaking to effect payment in installments, payment of the amount imposed as the measure for protection of competition may be made in installments under the issued approval.

The request for payment of the amount in installments shall be submitted to the Commission for Protection of Competition by an undertaking not later than 15 days from the date of receipt of the decision imposing the measure for protection of competition.

The request referred to in Paragraph 6 of this Article must contain rationale and be supported by evidence.

Payment of the amount set as the measure for protection of competition in installments shall be particularly approved in cases when an undertaking evidences the existence of, or clearly proves the presence of considerable and continuous financial difficulties in its business operations which may lead to bankruptcy or longer discontinuation of its operations.

Article 5

Measure for protection of competition may be imposed separately or simultaneously with the measure for removal of competition infringement.

Measure for removal of competition infringement shall be imposed if implementation of such measure can completely or partially remove effects of determined infringement of competition i.e. prevent potential occurrence of identical or similar infringement.

Article 6

This Regulation shall come into force on the eight day from the date of publication in the "Official Gazette of the Republic of Serbia".