

**Act XX of 1931
on the agreements regulating economic competition**

1. §

An agreement or decision which, by way of production, turnover or price evolution, or otherwise, imposes an obligation on goods which restricts economic competition or otherwise regulates competition (cartel or other similar legal relationship) is valid only if it was conducted in a written form. The same applies to such an agreement and decision supplementing or amending the original agreement or decision.

[tags: form of the agreement or decision restricting or regulating competition]

2. §

An agreement or decision falling under (1), in which at least one commercial company or at least one industrial or commercial company with more than twenty employees participates shall be presented to the Minister of Economic Affairs for registration within 15 days of the conclusion of the agreement or decision. The same shall apply to any such agreement or decision supplementing or amending the original agreement or decision.

The Government may extend the obligation of presentation by a decree to the whole area of the economy, or certain branches of it, the whole territory of the country or a part thereof to other agreements and decisions falling under (1) which do not fall under the provisions of the preceding paragraph.

For the validity of agreements and decisions falling under (1), which shall be presented for registration pursuant to this Section, the presentation is also required in addition to the written form.

In the event of omission or incompleteness of presentation, the Minister of Economic Affairs may call upon the party obliged to present to make the presentation or to remedy the deficiencies, and the party shall comply with this request.

The obligation of presentation shall be incumbent on all those who have entered into the agreement or made the decision; however, if the notification has been duly made by one of them, the others shall be released from the obligation to notify.

[tags: obligatory presentation of agreement or decision restricting or regulating competition]

3. §

At the same time of the presentation of the document, 1 or more – up to 3 – persons shall be appointed, with the specification of their work or occupation and domicile,

who are entitled to represent the company obliged to present before courts and other authorities in matters related to the agreement or decision, to make declarations mandatory for them, to receive decisions and other official communications concerning them. Only a Hungarian citizen having a domestic domicile is entitled to be a representative.

If several representatives have been notified, either of them representative in a matter, unless the parties provide otherwise in the notification.

The notification shall be accompanied by the authorisation given to the representative and, if the notification does not originate from the representative, his statement of consent.

In the absence or impediment of a representative, the President of the Cartel Court shall, at the expense of the registrants, appoint a temporary representative from the lawyers who are registered in the Chamber, who shall exercise the power of representative until the parties have properly registered a representative.

[tags: appointment and notification of representatives of the company]

4. §

The documents presented shall be treated confidentially and special care shall be taken to protect business and manufacturing secrets.

The Government shall lay down the detailed rules for presentation, notification and registration shall be regulated by decree.

[tags: secrecy of documents]

5. §

A national committee (Cartel Committee) consisting of a chairman, a deputy chairman and 9 members shall be established in Budapest to give the necessary opinion on the issues arising from the application of this Act; the chairman, the deputy chairman shall be appointed by the head of state on the proposal of the Government; the members shall be appointed by the Government: seven on the proposal the Ministry of Economic Affairs, two on the proposal of the Minister of Wellbeing and Labour from practical and theoretical experts.

The status of the members in honorary.

The representatives of the ministers may participate and speak up on the sessions of the Cartel Committee. The same right Delegates of the Treasury Legal Directorate also have the same right.

A valid decision, together with the chairman, requires the presence of at least five members. A member of the committee who has an interest in the matter shall not act on the matter. If, as a result, the branch of production concerned by the matter under consideration is left unrepresented, the chairman of the committee may complement

the committee from theoretical or practical experts in the branch of production concerned.

The members of the Cartel Committee shall be treated in the same way as public officials with regard to the application of criminal law and confidentiality in the tasks assigned to them.

The detailed rules of the organisation and operation of the Cartel Committee shall be regulated by the Government in a decree.

[tags: the Cartel Committee]

6. §

If an agreement or decision falling under (1), or its way of application or any other activity or behaviour, which – without a written agreement or decision – serves the aim determined in (1), endangers the interests of economy or public good, in particular, if it regulates the production, turnover or price development of goods to the detriment of the consumer public or producers, or of professionals or other traders, in a manner not justified by the economic situation, the Minister of Economic Affairs may take the following measures:

1. he may examine the status of the case; for this purpose, he may request the notification of measures and other information taken in application of an agreement or decision, the provision of information and the production of documents; he may also review business and management by viewing business books and other documents; may have members and staff, as well as other persons interrogated, if necessary, under oath in court;
2. if he considers that it is necessary, in the interests of the economy or of the public good, to terminate, amend or supplement the agreement or the decision, their way of application, or any measure, activity, conduct, he may try to seek an amicable settlement of the matter with the obliged parties, directly or indirectly, possibly with the assistance of a conciliation committee, and he shall take action in relation to the outcome;
3. if the result of procedure indicated in the preceding point would not be satisfactory, he may propose to the Government that the debtors discontinue their harmful operation on the economy or public good by withdrawing tax and customs and other public concessions, exclusion from public transport, industrial policing and freight rate measures; on the basis of this point, the Government may take those measures only which are referred to its legal competence, but may take such measures even if the special conditions for the application of the measures laid down in other legislation do not exist in the case of the condition preceded in this Section; however, if the Government deems it necessary to withdraw an industrial certificate or an official permit on the basis of this section, without which the obligors cannot continue their business, a motion shall be submitted to the court ((7), (10), (14)) for action;
4. may propose to the Government the amendment or abolition of certain customs duties laid down in the customs tariff, or the adoption of other customs policy

measures, which the Government may dispose of notwithstanding the conditions and limits of such measures laid down in the relevant laws;

5. if necessary, he may have recourse to the Cartel Court for a provisional measure ((10));

6. he may take measures for bringing an action for public interest ((7)).

The Minister of Economic Affairs may, without of the examination referred to in (6(1)), call upon the obligants to provide information with such warning that if the required information is not presented or disclosed, he will consider the circumstances of the complained situation – in order to take the necessary measures – to be true;

Before taking any appropriate action, the opinion of the Cartel Committee should normally be asked, unless the measure cannot be postponed.

This Section shall also apply *mutatis mutandis* to a company which, without agreement or cooperation with another, exploits its dominant position on the market alone or engages in conduct which endangers the interests of the economy or the public good as defined in the first paragraph.

[tags: competences of the Minister of Economic Affairs regarding agreement or decision restricting or regulating competition]

7. §

If the agreement or decision under (1) or the manner of its application or the formation established, or the activity or conduct covered by the first and last paragraphs of (6) are contrary to law, morality or public policy – in particular, it infringes the interests of the economy or the public good in the manner specified in (6) – the Legal Directorate of the Treasury may, on the instructions of the Minister of Economic Affairs, by an action brought before the Cartel Court (action in public interest), request that the court order jointly or separately in relation to the case:

1. the dissolution of the formation established based on the agreement or decision and the prohibition of continuation of its operation at the expense of a fine;

2. the prohibition of the execution of the agreement or the decision at the expense of a fine;

3. the discontinuance of the activity or behaviour and the prohibition of its continuation at the expense of a fine.

The amount of the fine shall be determined by the Cartel Court in the order adopting execution ((49) of Act LIV of 1912).

Any public authority or private party may apply to the Minister for Economic Affairs for an order to initiate an action in the public interest by presenting available data and evidence.

The Minister of Economic Affairs is not bound by the request, but if a public authority or public organ requests the initiation of an action in the public interest, it normally decides on the request after hearing the Cartel Committee.

[tags: competences of the Legal Directorate of the Treasury regarding agreement or decision restricting or regulating competition, action in public interest]

8. §

The Cartel Court shall be organised within the Curia, which shall proceed in a panel of the chair, two professional judges and two lay judges.

The President of the Cartel Court shall be either the Chief Justice of the Curia, – on the appointment of the president – its Associate Chief Justice or a chair of a panel. Two members of the Cartel Court shall be invited by the chair of the proceeding panel from the chairs and judges of panels previously appointed by the Chief Justice of the Curia. The lay judges of the Cartel Court shall be invited by the chair of the proceeding panel from the ten experts who are appointed every three years by the Minister of Justice from a list of at least 30 experts drawn up by the Minister for Economic Affairs.

[tags: the Cartel Court]

9. §

An action in the public interest shall be brought against all known interested parties and, if a representative has been appointed pursuant to (3), the application shall be served on that party. Each person who has interest may also participate in the lawsuit separately with an attorney.

The principles of the Code of Civil Procedure shall be applied in the proceeding, unless otherwise provided in this Act. The proceeding shall be carried out and completed as a matter of urgency.

The court may, of ex officio as well, refer the matter to the Cartel Committee for an opinion or review of an expert opinion.

In the action in public interest, the Treasury shall not be convicted at the defendant's expense even if the court does not uphold the action.

In accordance with the existing legal principles, a claim for damages may not be enforced against the Treasury as a result of the measures taken by the authority pursuant to this Act.

[tags: action in the public interest, proceedings before the Cartel Court]

10. §

The Cartel Court, on the request of the Minister of Economic Affairs or, during the proceeding, on the request of the Legal Directorate of the Treasury, if an urgent measure is necessary for the protection of public interest, may temporarily prohibit the implementation of the agreement, decision, measure, as well as the continuation of the activity or conduct at the expense of a fine, suspend the performance of obligations based thereon or take other interim measures as necessary to protect the public interest.

The Cartel Court shall revoke the provisional measure upon request or ex officio if the reason for its order has ceased to exist.

[tags: provisional measures aimed at protection of public interest]

11. §

This Act does not preclude the parties interested in the agreement or decision from exercising their rights arising from their legal relationship with each other, or otherwise from the invalidity of the legal relationship, in the ordinary course of law. The same applies to the exercise of third rights of third parties against them.

An agreement contrary to the rule set out in the preceding paragraph shall be null and void.

[tags: execution of the rights of the parties interested in the agreement or decision restricting or regulating competition]

12. §

The decision of the Cartel Court is binding on both the ordinary court and the court of arbitration.

If the ordinary court or the arbitral tribunal were to decide, in order to settle the proceedings before it, whether the operation of the agreement or decision or of the formation falls within the paragraph one of (7), it shall suspend the proceeding and turn to the Minister of Economic Affairs to take measures for action in the public interest in order to declare that the operation of the agreement or decision or formation falls within the scope of paragraph 1 of (7). The rules laid down in this Act for lawsuits in the public interest shall apply *mutatis mutandis* to this lawsuit. If the Minister for Economic Affairs notifies the ordinary court or the court of arbitration that he does not intend to have an action in the public interest brought or does not notify the requesting court of his decision on the request addressed to him within thirty days, the proceedings shall continue.

[tags: the ruling of the Cartel Court, action in public interest]

13. §

If the court of arbitration decides on a dispute based on an agreement, decision, action or conduct regulated by this Act, the decision shall be served on the Legal Directorate of the Treasury. Within 15 days after service, the decision of the court of arbitration shall not be enforced.

The judgment of the court of arbitration may be invalidated – apart from the cases mentioned in (784) of the Code of Civil Procedure – with an action when the judgment infringes a provision of this Act. On the ground that the judgment of the court of arbitration contravenes a provision of this Act, an action for annulment of the judgment may be brought only by the Legal Directorate of the Treasury on the instructions of the Minister for Economic Affairs. If the judgment is challenged only on the ground that it infringes any provision of this Act, the action shall be brought before the Cartel Court.

An action brought by the Legal Directorate of the Treasury suspends the enforcement of the decision of the court of arbitration until the decision of the Cartel Court. The agreement of the parties, according to which the decision of the court of arbitration may be enforced out of court by depositing the amount of the conviction in advance shall be null and void.

[tags: ruling of the court of arbitration]

14. §

At the request of the Legal Directorate of the Treasury, on the instructions of the Minister of Economic Affairs, a fine shall be imposed as a punishment on:

1. who omits without excuse the presentation of the agreement or decision under (1) in contrary to the act;
2. who unreasonably fails to comply with the summons addressed to him pursuant to (6(1)) or obstructs the implementation of the measures taken;
3. – based on a motion or ex officio – a person who, despite the fact that he was fined according to (7(1–3)), enforces such a decision or agreement, from which he was prohibited by the Cartel Court, or engages in an activity prohibited by the Cartel Court or continues to engage in such conduct.

The amount of the pecuniary benefit achieved or to be achieved by the action and the property relations of the person fined shall be taken into account in the imposition of a fine applicable both pursuant to this Section and to (7) and (10); the amount of fine has no other restriction.

The person who was fined and the formation have joint and several liability

If a person has already been fined repeatedly under (14(2)) or (14(3)), a ban on trading or business may be imposed permanently or for a specified period on the motion of the Minister of Economic Affairs or in another action in public interest of the Legal Directorate of the Treasury.

[tags: penal provisions, a fine, a ban on trading or business]

15. §

If the imposition of a fine is not requested in an action in public interest, rules applicable to commercial offenses shall apply to the proceeding for the imposition of the fine. In case of (14(1)) and (14(2)), the regional court, in case of (14(3)), the Cartel Court shall proceed. The Minister of Justice may lay down any special rules that may be required – including rules on territorial jurisdiction and appeals – by a decree.

Proceedings for the imposition of a fine shall lapse within 3 years from the commission of the act on which the fine is based, and any fine already imposed shall lapse within 5 years from the date on which the decision becomes final.

[tags: a fine, action in public interest]

16. §

An existing agreement and decision entered into before the entry into force of this Act, if not in writing, shall be recorded in writing within 30 days of the entry into force of this Act and if it shall be presented according to (2), it shall be presented to the Minister of Economic Affairs within 45 days of the entry into force of this Act.

[tags: obligatory presentation of an existing agreement or decision restricting or regulating competition]

17. §

It is prohibited to influence the free and natural formation of the price of an agricultural item brought to the fair by collusion or other artificial intervention to the detriment of producers.

In the frame of trade inspection, the authority shall monitor on local markets whether the price development is not affected in the manner prescribed in the preceding paragraph, and if it detects such abuse, it shall prevent it by the legal means at its disposal.

In the event that abuses cannot be prevented in the frame of trade inspection, or if the local fair price of a crop is permanently so disproportionate to the disadvantages of the producers, taking into account all the circumstances, compared to the national price or the price listed on the Budapest Stock Exchange therefore, that it can be reasonably assumed that this price development is the result of the abuses identified in the first paragraph, the Minister of Economic Affairs may, with or without a reasoned proposal from the administrative commission, in agreement with the ministers concerned, order the commencement of criminal proceedings for the acts specified in (18), either for all agricultural items brought to the fair or for certain designated items, until revoked. In case of such a proposal, this may, if urgently necessary, be ordered temporarily by the Administrative Committee pending the order of the Minister for Economic Affairs.

[tags: prices of agricultural products, trade inspection]

18. §

Unless a criminal offence of greater gravity is established, the person, who conspires, colludes with others, spreads false news about the fact that the free and natural formation of the fair price of an agricultural item brought to the fair is to the detriment of producers, commits a petty offense.

The penalty for this petty offense is a fine.

In case of this petty offense, the procedure falls within the competence of the administrative authority as a police criminal court, or within the competence of the state police if it is committed in its territory.

Proceedings shall only be instituted in respect of acts committed after the last paragraph of (17) had come into force.

The final criminal decision shall be sent to the Legal Directorate of the Treasury so that it can submit a proposal on any measures that may be required under this Act.

[tags: prices of agricultural products, dissemination of false news]

19. §

The day of the coming into force of this Act shall be determined by a decree of the Government. The necessary rules for the execution of (17) and (18) shall be determined by a decree of the Minister of Home Affairs, with the consent of the Minister of Economic Affairs. Otherwise, the interested ministers shall execute this Act. If the position of Minister of Economy is not filled, the powers conferred on the Minister of Economy by this Act shall be performed by the Minister of Commercial Affairs.

The administrative duties determined by this Act shall be performed by the personnel of the Ministry of Commercial Affairs.

[tags: vacatio legis]