

Translated by GCCA



Georgian Competition
and Consumer
Agency

**Order of the Chairman of the Competition Agency N 40 – “On the
Approval of the Rules and Procedures of Investigation”**

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ORDER №40
of the Chairman of the Competition Agency

28 October, 2020
Tbilisi, Georgia

On the Approval of the Rules and Procedures of Investigation

On the basis of the Paragraph 4 of the Article 17¹, Articles 18 and Paragraph 16 of the Article 25 of the Law of Georgia on Competition, and Subparagraph b of Paragraph 1 of the Article 25 of Organic Law of Georgia on Normative Acts, **I order:**

Article 1

“The Rules and Procedures of Investigation” annexed to this Order shall be hereby approved.

Article 2

Order №30/09-5 of the Chairman of the Competition Agency adopted on September 30, 2014 on “the Rules and Procedures of Investigation” shall be hereby repealed.

Article 3

This Order shall enter into force from November 4, 2020.

**Chairman of the Competition
Agency**

**Irakli
Lekvinadze**

The Rules and Procedures of Investigation

Chapter I

General Provisions

Article 1. Introductory provisions

1. The Rules and Procedures of Investigation (*hereinafter*, “the Rule”) is developed on the basis of the Law of Georgia on Competition (*hereinafter*, “the Law”).
2. This Rule defines the rules and procedures for conducting an investigation by the Legal Entity of Public Law - the Georgian Competition and Consumer Agency (*hereinafter*, “the Agency”) in relation to the violation of the provisions of the Law, as well as the rights and obligations of persons involved in the investigation process.

Article 2. The rights and obligations of the party/interested party

1. Parties have the right to:
 - a) Have a lawyer and/or a representative during the investigation process;
 - b) Submit a position, information and/or evidence to the Agency at any stage of the investigation;
 - c) Get familiar with the case materials in accordance with the procedure defined by the Article 99 of the General Administrative Code of Georgia;
 - d) Request an extension of the deadline for the submission of information/evidence;
 - e) Declare the recusal of the Agency employee, at any stage of the proceedings;
 - f) In accordance with the Law, request the classification of the information submitted by them to the Agency as a commercial secret.
2. If the complainant withdraws the complaint after the commencement of the investigation but before the draft decision is sent to the parties, the investigation is terminated, except in cases where there is substantiated evidence that competition is significantly restricted.
3. In addition to the rights set forth in the Paragraph 1 of this Article, the respondent has the right to:
 - a) Offer commitments to carry out specific actions for the purposes of eliminating the alleged violation of the Law (*hereinafter*, commitments);
 - b) Submit a substantiated request to the Agency for redistribution of the fine imposed upon it for a period not exceeding one year.
4. The interested party participating in the proceedings enjoys all rights conferred to the parties under this Article, except for the right of recusal provided for in the Subparagraph “e”.
5. The party/interested party is obliged to:

- a) Provide the Agency with the information requested (including confidential information), which is required in the course of exercising the relevant authority by the Agency;
- b) At the request of the Agency to appear for providing the explanation;
- c) Not to interfere with the authorized person/persons of the Agency in the process of on-site inspection procedure.

Article 3. The grounds for recusal

1. A party has the right to exclude an employee of the Agency who is interested in the subject-matter under consideration.
2. The ground of recusal is the existence of a conflict of interest as defined in Article 21 of the Law.
3. In the case provided for in the Paragraph 2 of the Article 21 of the Law, in particular, if there are relations foreseen by the Article 19 of the Tax Code of Georgia and the Article 92 of the General Administrative Code of Georgia between the authorized person of the Agency and the undertaking against whom the Agency conducts an investigation, the relevant employee of the Agency should immediately self-recuse due to the conflict of interest.
4. In case of non-fulfillment of the obligation provided for in the Paragraph 3 of this Article, the disciplinary measures foreseen in the Internal Regulations of the Agency shall be imposed upon the employee of the Agency.

Article 4. Public and confidential information

1. The decisions made by the Agency as a result of the investigation are public, except for the confidential information specified in Article 20 of the Law.
2. The confidential information is disclosed in accordance with the rules established by the legislation of Georgia.
3. When considering the issue of recognizing the information submitted to the agency as a commercial secret, as established by Article 20 of the Law and the General Administrative Code of Georgia, the agency is authorized to request the person to submit a non-confidential version of the document (with confidential data redacted) and to set an appropriate deadline.
4. The version of the document is considered non-confidential if all data related to the commercial secret is properly concealed and it can be disclosed to other interested person as the materials of administrative proceedings.
5. The Agency is entitled to disagree with the non-confidential version of the document submitted by the person and additionally request him/her to conceal the data in another way or to ensure the creation of a non-confidential version of the document and to inform the person thereon.
6. Disclosure, dissemination or use of confidential information by an employee of the Agency, including for personal, academic, scientific and other activities,

excluding in exceptional cases provided for by the legislation of Georgia, will result in disciplinary liability under the Internal Regulations of the Agency.

Chapter II

Investigation

Article 5. Grounds for initiating the investigation

1. The Agency is authorized to initiate an investigation on the basis of a complaint or *proprio motu*.
2. The investigation commences on the fact of the alleged violation of the Articles 6, 7, 10 and 11³ of the Law.
3. The investigation on the basis of the complaint commences with declaring the complaint admissible.
4. The Agency commences the investigation *proprio motu* on the basis of received application in accordance with the Paragraph 1 of the Article 22 of the Law, the circumstances identified during the market monitoring conducted by the Agency and/or any other information that raises reasonable suspicion of possible violations.
5. The Agency while commencing the investigation *proprio motu*, identifies the relevant respondent and and notifies it/them on the commencement of the investigation.
6. If the investigation is initiated in the case provided for in the Paragraph 2 of the Article 31 of the Law, the Agency is obliged to notify the regulatory body of the regulated field of economy on the commencement of the investigation.

Article 6. Duration of the investigation

1. After making a decision to initiate an investigation, the Agency starts investigating the case and makes a relevant decision within 6 months.
2. The investigation of the case, depending on its significance and complexity, may last up to 18 months.
3. The agency notifies the parties about the extension of the investigation period at least 10 working days before the expiration of the deadline for making the relevant decision.

Article 7. Temporary suspension of the undertaking's activities

The Agency is authorized to apply to the court in accordance with Article 18, Paragraph 1, Subparagraph "n" of the Law and Article 21⁷⁶ of the Administrative Procedure Code of Georgia to temporarily suspend the certain activity of the undertaking until the final decision is made by the Agency, if there is a clear evidence that this activity significantly

suspends the competition in accordance with Articles 6 and 7 of the Law.

Chapter III

Requesting the Information

Article 8. The right of the Agency to request the information

1. The Agency is authorized to request from the undertaking/party/interested party any document/information (including confidential) that is required in the process of exercising the relevant authority by the Agency and will support establishing the important circumstances for the case.
2. The agency's request for the provision of documents/information must specify the legal basis, subject, purpose, and the timeframe within which the information must be provided. Additionally, it should include the format for presenting the information (if necessary) and an indication of the possible consequences of failing to provide the information.
3. The term specified in the Paragraph 2 of this Article may not be less than 5 working days. The Agency is authorized to extend the deadline for submission of a document/information only once, but not more than 15 working days, based on a substantiated application.
4. [deleted].
5. [deleted].
6. The agency is authorized to return documentation/information to a person if it is clearly irrelevant to the case. After the documentation/information is returned, it is not included in the materials of the administrative proceedings.

Article 8¹. The Rule and Procedure for Submitting Correspondence

1. The agency sends and/or presents the document to the person in written or electronic form.
2. The agency chooses the form of sending and/or presenting the document to the person.
3. In the event that one document is submitted to a person multiple times or in several forms, the date of submission of the document is considered the date of its first submission.
4. When presenting a document to a person in written form, if the person refuses to accept the document, the person presenting the document shall make a corresponding notation.
5. The document may be sent to the person by mail and/or e-mail.
6. A document sent to a person by e-mail will be considered delivered if the addressee confirms its receipt.
7. The written document of the agency must be delivered to the addressee, their representative, a family member, or the administration of their workplace. For the

purposes of this clause, the family members of the addressee are considered to be close relatives permanently living with them, including: spouse, mother, father, sister, brother, grandmother, grandfather, adult child, adult grandchild, and any other adult person (regardless of family relationship with the addressee) who engages in common family activities with them.

8. If the written document of the agency, in accordance with the procedure established by paragraph 5 of this article, fails to be delivered to the addressee within 5 working days after sending, if the addressee refuses to accept the document, or if the addressee does not confirm its receipt by e-mail, the agency is authorized to send the document to the public law legal entity - Revenue Service for uploading the document to the page of the authorized user of the taxpayer request, after which the Revenue Service provides the taxpayer with the document through the page of the authorized user. In this case, the document is considered delivered from the moment it is opened by the addressee.
9. If the decision and/or order of the agency cannot be delivered to the party in the manner established by paragraphs 5-8 of this article, the decision and/or order is considered delivered to the party on the 60th day after its publication on the official website of the agency.

Article 9. Submission of information

1. The information is deemed to be submitted if it has been entirely submitted within the time limit specified by the Agency to the legal address of the Agency and/or official e-mail.
2. If the receipt of this information by the Agency is related to the calculation and/or renewal of the time limit provided by the legislation, the relevant time period shall be calculated/renewed from the day following the registration of the information.
3. A person is entitled to request the Agency to classify the specific information submitted by him/her as a commercial secret, in accordance with the rules established by the General Administrative Code of Georgia and to submit the relevant justification.
4. The Agency shall consider the request submitted in accordance with the Paragraph 3 of this Article in accordance with the rule established by Article 27² of the General Administrative Code of Georgia.

Article 10. The failure to submit the information

1. The information will be considered as non-submitted in the following cases:
 - a) Failure to provide information within the established time limit;
 - b) Submission of incorrect information;
 - c) Submission of incomplete information.
2. The information will not be considered as non-submitted in case of substantiated response on the lack of requested information within the time limit specified by the Agency.

Article 11. Consequences of the non-submission of information

1. The failure to provide the information requested by the Agency within the established time limit, provision of incorrect or incomplete information will result in a fine of three thousand GEL for a legal entity and a fine of one thousand GEL for an individual.
 2. Despite the imposition of a fine, in case of failure to provide the information within a re-determined time period by the Agency, the legal entity will be fined in the amount of five thousand GEL and the individual - in the amount of three thousand GEL.
- 2¹. In the cases provided for by paragraphs 1 and 2 of this article, the agency will investigate the matter through the simplified administrative proceedings established by the General Administrative Code of Georgia for the adoption of an individual administrative-legal act, for which it uses the appropriate authority defined by Article 18 of the law.
3. Imposition of a fine does not release a person from the obligation to submit the information to the Agency.
 4. In case of non-submission of information, in addition to imposing a fine, the Agency has the right to:
 - a) In accordance with the rules established by Article 18, Paragraph 1, Subparagraph "c" of the Law and the Article 21⁷³ of the Administrative Procedure Code of Georgia, apply to the court to request information/documentation from the undertaking/party/interested party in the process of exercising the relevant authority;
 - b) In accordance with the rules established by Article 25, Paragraph 7 of the Law, Chapter 4 of this Rule and the Article 21⁶⁹ of the Administrative Procedure Code of Georgia, apply to the court for on-site inspection of the relevant undertaking.
 5. Within the framework of the investigation conducted against the state authorities, authorities of autonomous republic, municipal authorities or any other administrative body on the alleged violation of the Article 10 of the Law, in case of non-submission of the requested information by the respondent within the established time period, provision of incorrect or incomplete information, the Agency shall raise the issue of disciplinary liability of the authorized person.

Chapter IV

On-Site Inspection of the Undertaking

Article 12. Legal basis of on-site inspection

1. In the cases provided for in the Paragraph 7 of the Article 25 of the Law, the Agency shall apply to the court with a motivated motion for the purposes of an on-site inspection of the undertaking.
2. The Agency's motion for an on-site inspection of the undertaking must contain sufficient grounds and justification for the necessity to apply the appropriate measure. The motion shall indicate the exact details of the undertaking to be inspected, the term, nature and scope of the inspection.
3. The judge orders the on-site inspection of the undertaking in accordance with Article 21⁷⁰ of the Administrative Procedure Code of Georgia, within 72 hours after the submission of the motion by the Agency without notifying the undertaking whose on-site inspection is requested by the Agency.
4. Based on the judge's order, the Agency shall issue an order indicating:
 - a) Name, surname, position and number of the service certificate of the authorized persons of the Agency participating in the on-site inspection;
 - b) The name, surname, and personal number of the invited expert(s) from the relevant field, law enforcement officials, and/or representatives of other state agencies participating in the on-site inspection.

Article 13. Basic rights and obligations of the parties participating in the on-site inspection

1. The inspection must be conducted during working hours. If necessary, the inspection may be extended to non-working hours, including holidays and weekends.
2. It is possible to conduct an on-site inspection of an undertaking who is not under investigation, although there are sufficient grounds and justifications that documents having significant importance to the relevant case are kept with him and there is a judge's order to inspect this undertaking.
3. On-site inspection comprises:
 - a) Examine documents related to the activities of the undertaking, including financial-economic documents, regardless of their confidentiality and storage rules;
 - b) Making copies of the documents referred to in subparagraph "a" of this Paragraph;
 - c) Receiving explanations on-site;
 - d) On-site access to the legal and factual place of activities of the undertaking.
4. Each person authorized by the Agency to carry out the on-site inspection is obliged to submit a service certificate to the undertaking against whom the on-site inspection is underway before commencing the inspection.
5. The authorized person of the Agency conducting the on-site inspection is obliged to submit the orders of the judge and the Agency to the undertaking against whom the on-site inspection is conducted, which is confirmed by the authorized person of the undertaking via signing the relevant document.

6. The authorized person of the Agency conducting the on-site inspection is obliged to inform the undertaking about the rights and obligations of the persons participating in the inspection process, procedural issues as well as the consequences of the disobedience to the legal requirements of the authorized person(s) of the Agency, which is confirmed by the authorized person of the undertaking via signing the relevant document.
7. The undertaking is obliged to cooperate with the authorized persons of the Agency during the on-site inspection, including:
 - a) To provide access to the place of inspection for the authorized persons of the Agency;
 - b) Not to interfere with the authorized representative of the Agency in the performance of his/her duties;
 - c) Attach to the authorized persons of the Agency a representative and/or an employee, who, if necessary, will provide an explanation, assist the representatives of the Agency in the effective conduct of the on-site inspection process, including temporary blocking of e-mails of undertaking's staff, temporary disconnection of the computers from the network;
 - d) Not to touch those items (computers, material documents, records, etc.) that were instructed by the authorized representative of the Agency.
8. During the inspection the undertaking has the right to invite a lawyer and/or another representative. The participation of such person(s) is not a condition of the legality of the on-site inspection process. At the same time, it is inadmissible to delay/interfere with the on-site inspection process based on the lawyer/representative's participation reason.
9. In the event of denying access to authorized persons or obstructing the inspection process during the on-site inspection provided for in paragraph 3 of this article, the undertaking will be fined in accordance with Article 33 of the law..

Article 14. Participation of the third parties in the on-site inspection

1. To properly conduct the on-site inspection process, an expert from the relevant field may be involved.
2. In the case of involving an expert in the on-site inspection process, the scope of the expert's authority is determined individually for each specific case, within the framework of a written agreement between the agency and the expert.
3. If necessary, considering the need for specific knowledge and/or information technology support, representatives of law enforcement agencies and/or other state institutions may participate in the on-site inspection process.

Article 15. Sealing of space and/or documentation during the on-site inspection

1. The authorized person of the Agency has the right to seal the inspection are

business premises entirely or partially, as well as the documents related to the activities of the undertaking (including financial-economic documents) and computers, for the duration and volume necessary for the on-site inspection purposes so that this does not cause to the suspension of the undertaking's activities.

2. The sealing of the area or part of it to be inspected and/or documents related to the activities of the undertaking (including financial-economic documents) and computer equipment may be carried out during the on-site inspection period, for the necessary duration and to the appropriate extent needed for the inspection.
3. In case of making a decision on the sealing of business premises and/or documents related to the activities of the undertaking (including financial-economic documents) and the computers, the minutes shall be drawn up by the authorized representatives of the Agency thereon. The undertaking is obliged to ensure the integrity of the seal, until the authorized persons of the Agency conduct unsealing. During the unsealing, a minute is drawn up with indication of the seal condition.

Article 16. Receiving the explanation during the on-site inspection

1. During the on-site inspection, the explanations received from the representative of the undertaking and/or the employee of the undertaking on the question posed by the authorized person (s) of the Agency can be recorded in any form.
2. A copy of the explanation recorded in accordance with the Paragraph 1 of this Article is sent to the relevant undertaking upon the completion of the on-site inspection.

Article 17. Obtaining information during the on-site inspection

1. The Agency is authorized to examine the documents related to the activities of the undertaking, including financial-economic documents, regardless of their confidentiality and storage rules, as well as to make a copies of this information.
2. The Paragraph 1 of this Article also includes the right of the Agency to examine the information available in an electronic format, as well as to make a copies of this information.
3. During the on-site inspection, the Agency representatives have the right to inspect the relevant undertaking's:
 - a) IT-environment, including servers, personal/desktop computers, laptops, tablets, and other electronic devices;
 - b) storage media, including CD-ROMs, DVDs, USB-keys, external hard disks, backup tapes, cloud services, etc.
 - c) Employee's personal equipment, means and facilities used for the working purposes and present at the inspection place.
4. The right under the Paragraph 1 of this Article includes the right of the Agency

representatives to use not only built-in/integrated search engines, but also other relevant forensic IT tools during the on-site inspections.

5. The means of storing the information selected for the inspection, for the purpose of the security control of this storage means, can be transferred to the temporary possession of an authorized person of the Agency before the completion of the on-site inspection, the minutes shall be drawn up thereon.
6. The means of storing the information referred to in the Paragraph 5 of this Article shall be returned to the undertaking after the completion of the on-site inspection or after making a forensic copy thereof. Such copy is regarded as an authentic duplicate of the information contained in the original storage means. Checking the authentic duplicate is equivalent to checking the original information storage medium.

Article 18. Handling information obtained during the on-site inspections

1. Upon the completion of the on-site inspection, the information obtained during the inspection shall be transferred to the information carrier (for example, DVD) by an authorized person(s) of the Agency. Three identical copies are made, one of which is given to the undertaking, and two are taken by the authorized person(s) of the Agency.
2. Upon the completion of the inspection, two copies of the inspection report are prepared, which also includes a list of information provided for in Paragraph 1 of this Article obtained during the on-site inspection. One copy of the protocol is submitted to the undertaking.
3. The fact of familiarization with the inspection report and the transfer of one of its copies, as well as the transfer of the information carrier shall be confirmed by the undertaking's authorized person via signature.
4. The undertaking is entitled to request classification of the information obtained by the Agency during the on-site inspection as a commercial secret in accordance with the rules established by the Article 27² of the General Administrative Code of Georgia.
5. Documents containing confidential information obtained by the Agency during the on-site inspection shall be protected in accordance with applicable legislation.

Chapter V

Conducting Investigation

Article 19. General procedure of investigation

1. In case of a decision by the Agency to initiate an investigation, the investigation team with the participation of at least 2 persons is appointed, which together with the employee of the Agency can include an invited specialist. With the decision of

- the Agency, the relevant employee of the Agency is appointed as the head of the investigation team.
2. The investigation team is authorized to carry out any action permitted by the legislation of Georgia, which is necessary for conducting the investigation. The decision is made by the majority of votes. In case of equal distribution of votes, the vote of the head of the team prevails.
 3. In the case of involving a specialist in the investigation team, the scope of the invited specialist's authority is determined individually for each specific case, within the framework of a written agreement between the agency and the invited specialist.
 4. During the investigation process, the investigation team shall:
 - a) Establish an investigation plan;
 - b) Draft the documentation/information request within the scope of the investigation;
 - c) Participate in explanations and summary meetings;
 - d) Participate in the on-site inspection process of the undertaking;
 - e) Participate in the preparation of documentation to be submitted to the court;
 - f) Review the conditional commitments proposed by the party;
 - g) Develop a draft decision;
 - h) Implement other necessary measures stipulated by law to conduct the investigation.
 5. The agency is authorized, considering the principle of effective and timely case management, to incorporate complaints filed on the same subject and against the same respondent into the ongoing investigation if it is feasible within the remaining investigation period. In this case, the investigation must be completed within the timeframe initially set for the original investigation.
 6. The agency is authorized to conclude the investigation of alleged violations of several articles of the "Law on Competition" of Georgia separately for each article.

Article 20. Examination of the circumstances of the case

1. The Agency is obliged to examine all circumstances relevant to the case during the administrative proceedings and to make a decision based on the assessment and reconciliation of these circumstances.
2. Depending on the circumstances of the case, the Agency is authorized to:
 - a) Collect information about the case;
 - b) Receive an explanation or hold a consultative meeting to determine the circumstances of the case;
 - c) Invite an expert;
 - d) Apply other measures provided by Law for the purpose of collecting,

examining and assessing evidences.

Article 21. Forms of cooperation

1. If the investigation is conducted in the cases provided for in the Paragraph 2 of the Article 31 of the Law, the Agency is obliged to apply to the regulatory body of the regulated field of the economy to participate in the examination of the issue and/or to present its position.
2. For the purposes of in the examination of the issue, the regulatory body of the regulated field of economy is authorized to:
 - a) Request and get familiar with the case materials;
 - b) Participate in the explanations provided for in Articles 24 and 25 of this Rule;
 - c) Get familiar with and express the relevant position on the commitments undertaken by the respondent undertaking;
 - d) Get familiar with and express the relevant position on the final draft decision of the Agency;
 - e) Participate in the summary session held in accordance with the procedure established by Article 28 of this Rule;
 - f) Get familiar with and express the relevant position on the amount of fine to be imposed on the person by the Agency.
3. In the cases provided for in Subparagraphs "b-f" of the Paragraph 2 of this Article, the relevant information/documentation shall be provided to the regulatory body of the regulated field of the economy within a reasonable time period before the relevant position is expressed or an action is taken.

Article 22. Persons from whom explanations can be obtained

1. In order to establish the circumstances significant to the case, the Agency may, on its own initiative or upon the motion of a party invite for an explanation at the oral hearing/session:
 - a. A party;
 - b. An interested party.
2. Persons summoned by the Agency for providing an explanation are obliged to appear at the hearing and give an explanation.

Article 23. The notification on the time and place of the hearing

1. The notification must be delivered to the addressee, his/her representative, family member or workplace administration. The notification can be made via mail and/or other technical means (telephone, fax, e-mail). The notification by the technical means referred to in this Paragraph is considered to have been delivered upon the confirmation by the addressee.

2. The notification of the time and place of the hearing must be delivered to the parties and other persons/institutions related to the case at least 5 working days before the hearing.

Article 24. Explanation hearing

1. The Agency shall hold a hearing with the participation of the parties for the purpose of obtaining explanations.
2. The hearing is chaired by the head of the investigation team or a person designated by him/her.
3. The hearing opens with an introductory speech by the chair of the hearing, where he/she explains the procedural matters and the main content of the ongoing investigation.
4. In the case of an investigation on the basis of a complaint, after the introductory speech of the chairperson of the hearing, the complainant or his/her representative is entitled to make a report on the circumstances and evidence on which his/her complaint is based.
5. After the persons referred to in Paragraphs 3 and 4 of this Article, the respondent or his/her representative can make a report on his/her position and the information provided by the complainant and/or the Agency.
6. The representative of the Agency and the parties have the right to ask questions at the hearing. The parties may ask questions to other persons participating in the hearing with the consent of the chairperson of the hearing. The representative of the Agency has the right to ask questions directly related to the circumstances of the case, as well as questions that are not directly related to the case, but will help to establish the circumstances relevant to the case.
7. The hearing can be conducted via video conference.
8. The absence of the person invited to the hearing is not a ground for the hearing postponement. In case none of the invited persons appear at the hearing and/or there is an excuse for the absence of the person, the chairperson reschedules the hearing.
9. The chairperson of the hearing has the right to request the person violating the order to leave the hearing.
10. At the end of the hearing, the minutes of the hearing are drawn up, which are signed by the chairperson of the hearing and the secretary of the hearing.
11. With the consent of the parties, the hearing provided for in this Article may be recorded using the technical means. In this case, the recordings of the hearing are attached to the minutes of the hearing/explanation and the content of the recordings is not reflected in the minutes in writing.
12. After the conclusion of the meeting, the agency sends the protocol of explanations and the relevant recording (if available) to the participants of the meeting within 3 working days, ensuring the protection of confidential information (if applicable). If the recording of the explanation meeting did not occur due to the lack of consent from the parties, the person is authorized to submit written

comments on the content of the protocol within 5 working days.

Article 25. Individual explanation

1. Considering the interests of the investigation, an explanation can be obtained without holding a hearing, by an individual explanation. In this case, the explanation minutes drawn up, which is signed by an employee of the Agency who receives the explanation and the person giving the explanation.
2. If the person giving the explanation refuses to sign the minutes, the employee of the Agency shall sign the minutes himself/herself and indicate the reasons for the person refusing to sign.
3. With the consent of the person providing the explanation, the process of explanation provided for in the first paragraph of this article may be recorded using technical means. In this case, the recording is attached to the explanation protocol, and the content of the recording is not transcribed in written form in the protocol. The protocol is then signed only by the agency's employee.

Article 26. Commitments

1. Prior to the final decision of the Agency, the respondent undertaking is entitled to offer commitments to the Agency.
 2. The agency is obliged to notify the complainant within 5 working days of receiving the conditional commitments and to set a deadline for the submission of opinions and relevant information. Additionally, the agency must publish information about the conditional commitments on its official website, which will serve as a basis for suspending the investigation period.
- 2¹. In the case provided for in paragraph 2 of this article, the conditional commitments proposed by the party shall be published on the agency's official website in the form of an annotation, excluding confidential information. Additionally, information about the ongoing investigation, including the subject of the dispute, the parties involved, and the alleged market, must also be published. The deadline for interested parties to submit their opinions must be indicated, which cannot be less than 10 calendar days.
3. If the investigation is conducted in the case of examining the matters under Paragraph 2 of the Article 31 of the Law, the Agency shall, within 5 working days of the receipt of the commitments for consideration, notify the regulatory body of the regulated field of economy and set a reasonable time period for submitting opinions.
 4. The Agency is authorized to request additional information and/or evidence from the respondent undertaking, which will help to establish the relevant circumstances for the consideration of/decision on the commitments, which also suspends the time period of the investigation.

5. The Agency is authorized to consent or refuse to accept the commitment offered by the respondent undertaking. In making its decision, the Agency is not bound by the position of the complainant and/or the regulatory body of the regulated field of economy, however, the decision must state the relevant justification.
6. If the Agency considers that the performance of the commitment undertaken by the respondent undertaking will eliminate the risk of alleged violation of the Law and accepts commitments to take specific action to remedy the alleged violation of the Law, the Agency makes a final decision without assessing the alleged violation and defines a time limit for fulfilling the commitment assumed by the undertaking.
7. In case of accepting commitments, the Agency is entitled to request the undertaking to provide information on the fulfillment of these obligations with certain periodicity.
8. If the Agency does not consider acceptance of commitments reasonable, it shall notify the respondent undertaking thereon and continue the investigation. In this case, the regulation provided for in the Paragraph 4 of the Article 177 of the General Administrative Code of Georgia shall apply. The mentioned information, in the case provided for in paragraph 2 of Article 31 of the Law, shall also be sent to the regulatory body of the regulated field of economy.
9. If the respondent undertaking does not fulfill the commitments within the time period and in the manner specified by the Agency:
 - a) The undertaking shall be imposed a fine, the amount of which for each overdue day shall not exceed 5% of the average daily turnover of the undertaking during the previous financial year prior to the relevant decision of the Agency.
 - b) The decision issued by the Agency without an assessment of the alleged violation will be revoked and the case will be resumed for the remaining term. The remaining term is calculated from the date of receipt of commitments for consideration by the Agency.
10. For the purposes of determining the amount of the fine referred to in Paragraph 9(a) of this Article, the previous financial year shall mean the previous financial year prior the Agency's decision. If the undertaking is registered in the year of decision-making by the Agency in accordance with the rules established by the legislation, the year of decision-making shall be considered as the relevant financial year.

Article 27. The draft decision

1. The Agency shall send the Agency's final draft decision and case materials in writing to the applicant, the complainant and the respondent before the summary session. In addition, the applicant and the parties are explained that they have the right to present their positions and relevant additional information (evidences).
2. In the case provided for in paragraph 1 of this Article, the time period for

submitting a position shall not be less than 25 working days. Information submitted after the expiration of this period may not be taken into account by the Agency in making its final decision.

3. If the investigation is conducted in the case of the Paragraph 2 of the Article of the Law, the Agency is obliged to send the draft decision, together with the case file, to the regulatory body of the regulatory field of the economy and to set a reasonable time period for submitting opinions.
4. In the case provided for in the Paragraph 3 of this Article, the regulatory body shall be entitled to submit a position within the time period specified by the Agency. The Agency is not bound by the position provided by it, however the relevant justification must be indicated in the decision.

Article 28. The summary session

1. After the investigation of the circumstances of the case and the collection of evidences, a summary session is scheduled with the participation of the parties and other competent bodies/persons.
 2. The scheduling of the meeting and the invitation of participants shall be carried out in accordance with the procedures defined by Article 23 of this rule. The meeting can be conducted via video conference or in a hybrid format (with some participants joining online).
 3. The summary session is chaired by the head of the investigation team or a person designated by him/her.
 4. The summary session is opened by the chairperson of the session with an introductory speech, in which he/she conveys the main essence of the case and assesses the legal condition created by the existing evidence, as well as discusses the main issues given in the draft decision of the Agency.
 5. After the speech of the chairperson of the session, the parties give the main speeches in turns. In the case of an investigation based on a complaint, the floor is firstly given to the complainant and then to the defendant. After the parties, the chairperson of the session gives the floor to other agencies/persons participating in the session.
 6. After the main speeches, the participants of the session have the right to ask each other questions, with the permission of the chairperson of the session.
 7. After the questions are exhausted, the parties and other participants in the hearing are given the right to remark.
- 7¹. It is possible for a portion of the summary meeting to be temporarily closed and conducted in an individual format with each party, in order to protect confidential information from disclosure. After discussing such information, the meeting should continue in its standard format.
8. At the end of the session, the minutes of the session are drawn up, which are signed by the chairperson of the session and the secretary of the session.

9. If the parties consent, the summary session can be recorded using the technical means. In this case, the minutes of the meeting are attached to the minutes of the summary session.
10. After the conclusion of the summary meeting, the agency sends the protocol of the summary meeting and the relevant recording (if available) to the participants of the meeting within 3 working days, ensuring the protection of confidential information. If the recording of the summary meeting did not occur due to the lack of consent from the parties, the person is authorized to submit written comments on the content of the protocol within 5 working days.
11. In the case provided for in paragraph 71 of this article, the protocol/recording of the closed session cannot be sent to any person other than the participant of that session.

Chapter VI

The Decision of the Agency

Article 29. The final decision of the Agency and rule of appeal

1. After the summary session, the investigation team prepares a draft decision, which is submitted to the Chairman of the Agency for approval.
 2. While making the decision, the Chairperson of the Agency is authorized by Law to approve or return it to the investigation team for further investigation and/or clarification, taking into consideration the time remaining before the expiration of the term of investigation specified by Law.
 3. The decision is approved by the Order.
 4. The decision must be sent to the parties/applicant within 5 working days from the date of its adoption, in the form established by paragraphs 4 and 5 of Article 8 of this rule. It must also be published on the agency's official website within 10 working days, ensuring the protection of confidential information, in accordance with the procedures established by Georgian legislation.
- 4¹. If the decision cannot be delivered to the party in the form established by paragraphs 4 and 5 of Article 8 of this rule, the decision is considered delivered to the party on the 60th day after its publication on the agency's official website.
5. The decision of the Agency may be appealed in accordance with the Law and the General Administrative Code of Georgia in the Tbilisi City Court.

Article 30. The fine

1. The decision of the Agency must contain substantiated information on the

amount of the fine and the rule of its calculation.

2. In case of confirmation of the violation provided for in Articles 6 or 7 of the Law, the party will be fined, the amount of which shall not exceed 5% of its annual gross income during the previous financial year, and in case of non-elimination of the legal basis of the mentioned violation or recurrence of this violation - 10%.
3. In case of confirmation of the violation provided for in Article 11³ of the Law, the undertaking shall be fined, the amount of which shall not exceed 1% of the annual gross income of the undertaking during the previous financial year before the relevant decision, and in case of non-elimination of the legal basis of the mentioned violation or recurrence of this violation – 3%.

3¹. In the case provided for by Article 25, Paragraph 8¹ of the law and Paragraph 9 of Article 13 of this rule, the undertaking will be fined 10,000 GEL, and in the event of a repeated violation, the fine will be 20,000 GEL.

4. For the purposes of determining the amount of the fine provided for in this article, the gross income of the undertaking for the previous financial year refers to the gross income of the undertaking during the financial year preceding the relevant decision by the agency. If the undertaking is registered in accordance with Georgian legislation in the year the agency makes the relevant decision, the gross income refers to the income from the date of registration until the final decision by the agency.
5. The amount of the fine is calculated based on the guidelines for determining the amount of fines developed by the Agency.
6. The fine imposed by the agency must be paid by the person within one month from the date of receiving of the agency's decision, as prescribed by law.
7. The person is entitled to submit a substantiated request to the agency within 10 working days from the date of receipt of the agency's decision, as prescribed by law, for the payment of the imposed fine to be spread over a period not exceeding one year. The request must include justification, information, and documentary evidence regarding their financial situation and the objective circumstances preventing the timely payment of the fine.
8. In the case provided for in paragraph 7 of this article, the agency, based on the information submitted by the party, shall make a decision on whether to allow the installment payment of the fine or to refuse the request within 5 working days. If installment payment is allowed, a payment schedule is established.
9. In the event of an appeal against the agency's decision and the suspension of the act's effect, the fine must be paid within one month from the date the agency's decision becomes legally binding.

Article 31. Inadmissibility of re-investigation of the case

After the completion of the investigation, it is inadmissible to start the investigation between the same parties, on the same dispute matter, on the same grounds, unless there is a newly discovered and/or revealed circumstance.