

# KINGDOM OF BELGIUM

## Federal Public Service Economy, SMEs, Self-Employed and Energy

Royal decree (31-10- 2006) on the filing of complaints and requests in accordance with article 44, § 1°, 2° and 3° of the Act on the Protection of Economic Competition, consolidated on 15<sup>th</sup> September 2006 (1).

ALBERT II, KING OF THE BELGIANS,

To all present and future subjects,  
Greetings.

Given the act on the protection of economic competition, consolidated on 15<sup>th</sup> September 2006 in particular article 46;

Given the royal decree of 22<sup>nd</sup> January 1998 concerning the submission of complaints and requests in accordance with article 23, § 1°, c) and d) of the act of August 5, 1991 on the protection of economic competition, consolidated in 1<sup>st</sup> July 1999, amended by the royal decree of 28<sup>th</sup> December 1999;

Given the urgency owing to the fact that the act of 10<sup>th</sup> June 2006 on the protection of economic competition enters into force on 1<sup>st</sup> October 2006 and repeals on the same date the act on the protection of economic competition, consolidated on 1<sup>st</sup> July 1999 and the act of 10<sup>th</sup> June 2006 creating a Competition Council also enters into force on the same date. Accordingly, in order to ensure that the provisions of

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<sup>1</sup> This is an unofficial translation in English of the official Dutch and French version of the royal decree.

**This translation is merely for your information. Only the texts published in the Belgian Official Gazette are authentic.**

Ceci est une traduction officieuse en anglais de la version officielle en néerlandais et français.

Cette traduction est uniquement à titre d'information. Seule fait loi la législation belge publiée au « Moniteur belge ».

Dit is een officieuze vertaling in het Engels van de officiële Nederlandse en Franse versie van het KB.

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the said new laws are fully implemented, it is necessary for the implementing decrees to enter into force on the same date at the latest and to be published beforehand. Otherwise it would be impossible to apply the new legislation, which would result in a legal vacuum which would seriously impede the economic activities of undertakings, deprived of legal certainty, which would undermine the Belgian Competition Authority's credibility. The State could be held liable for this situation and make itself liable to judicial proceedings and a formal warning from the Commission of the EC for non-compliance.

Given the opinion 41.371/1 of the Council of State, given on 28<sup>th</sup> September 2006 pursuant to article 84, § 1, clause 1°, 2°, of the consolidated acts on the Council of State;

On a proposal of our Minister for Economy,

Be it therefore enacted :

**Article 1.** For the purposes of this decree, the following definitions shall apply:

1° the law: the act on the protection of economic competition, consolidated on 15<sup>th</sup> September 2006;

2° the competition prosecutor: the member of the College of Competition Prosecutors referred to in Chapter III, Section 1, Subsection 4, of the act;

3° the registry: the registry referred to in Chapter III, Section 1, Subsection 6, of the act;

4° the Council: the Competition Council referred to in Chapter III, Section 1, Subsection 1 to Subsection 3, of the act;

5° Regulation 1/2003: Council Regulation (EC) n° 1/2003 of 16<sup>th</sup> December 2002 on the implementation of the rules of competition laid down in articles 81 and 82

of the Treaty establishing the European Community.

**Art. 2.** § 1. The complaints and requests referred to in article 44, § 1°, 2° and 3°, of the act and if applicable their annexes, shall be submitted in eight copies, in accordance with the procedure stipulated in the form P/K annexed to this decree, for the attention of the College of Competition Prosecutors, to the address of the registry shown on the Competition Council's web site: <http://economie.fgov.be>

§ 2. When complaints or requests are signed by representatives of natural or legal persons, the said representatives must hold a written mandate confirming their power of representation. When the principal is a legal person, a justification of the principal's powers must be annexed to the mandate.

A justification of the powers of the signatories shall be annexed to the complaints and the requests when they are submitted by legal persons acting by their officers.

Complaints and requests shall be submitted by registered letter or by messenger against a receipt during the registry's business hours. An electronic copy of the complaint or request shall be sent simultaneously for the attention of the College of Competition Prosecutors to the e-mail address of the registry shown on the Competition Council's website.

§ 3. The natural or legal persons or their representatives submitting a complaint or request shall provide an address in Belgium to which all correspondence is to shall be sent to them, as well as an e-mail address.

**Art. 3.** § 1. The complaint or request shall be drawn up in one of the national languages.

The documents attached to the complaint or request shall be filed in their original language. If that language is not one of the national languages or English, the competition prosecutor or the Council may require the natural or legal person submitting the complaint or request to provide a translation of all or part of the attached documents.

§ 2. Complaints and requests shall include full details and specify clearly the competition practices covered by the act and by articles 81 and 82 of the EC Treaty pursuant to Regulation 1/2003.

If the complaint or request contains confidential information, a non-confidential version shall be attached.

Complaints and requests shall be supported by all relevant documentary proof in the possession of the complainant or the party submitting the request.

**Art. 4.** The registry shall issue without delay an acknowledgement of receipt of complaints and requests submitted in accordance with this decree. The acknowledgement of receipt shall indicate the registration number of the complaint or request.

As soon as the file has been allocated to a competition prosecutor, the registry shall inform, by ordinary mail, fax or e-mail, the natural or legal persons or their representatives who submitted the complaint or request, of the competition prosecutor 's name and contact details.

**Art 5.** § 1. The provisions of articles 2, § 2 to 4 shall apply to requests for interim measures in accordance with article 62 of the act.

§ 2. Requests for interim measures shall indicate clearly to what extent it is urgent to avoid a situation likely to cause serious, imminent and irreparable damage to the undertakings affected by such practices or

harm the general economic interest. Proof enabling the president of the Council to take such measure shall be annexed to the request.

**Art. 6.** The royal decree of 22<sup>nd</sup> January 1998 concerning the filing of complaints and requests referred to article 23, § 1, c) and d), of the act on the protection of economic competition, consolidated on 1<sup>st</sup> July 1999 amended by the royal decree of 28<sup>th</sup> December 1999 is rescinded.

**Art.7.** This decree shall enter into force on 1<sup>st</sup> October 2006.

**Art. 8.** Our Minister for Economy is charged with the implementation of this decree.

Done at Châteauneuf-de-Grasse,  
31 October 2001.

By the King:  
Albert II

The Minister for Economy,

M. VERWILGHEN