

## **Cohlear case procedures**

### **1st stage (application):**

In 2018 the EEC received an application from the Ministry of National Economy of the Republic of Kazakhstan, alleging a possible violation of paragraph 5 of Article 76 of the EAEU Treaty in the actions (omissions) of Cochlear Europe, Pharm Express LLP (Kazakhstan) and Euromax LLC (Russia).

The Ministry reported on possible:

- conclusion of a distribution agreement between Cochlear Europe and Pharm Express LLP, providing for the exclusive right to import and further sale of components of cochlear implantation systems, speech processors and other parts produced by Cochlear Europe;
- absence of similar rights for any third parties in Kazakhstan,
- ban on the import and sale of Cochlear Europe products in Kazakhstan by any legal entities and (or) individuals without the corresponding written permission of Pharm Express LLP.

A copy of the materials was sent to the antimonopoly bodies of the EAEU member states (*paragraph 12 of the Procedure for Considering Applications (Materials) on Violation of the General Rules of Competition in Transboundary Markets approved by the Decision No. 97 of the Eurasian Economic Commission dated November 23, 2012*).

### **2nd stage (investigation):**

Antimonopoly bodies assigned employees responsible for interaction with the EEC in the course of the investigation (*paragraph 13 of the Procedure for Considering Applications*).

As part of the investigation, the EEC sent a request for documents necessary for the investigation and request to inspect the premises, documents and objects of the person under investigation or under consideration for violation of the general rules of competition (*paragraph 61 of the Protocol*).

As part of the execution of the request Federal Antimonopoly Service of Russia provided the electronic correspondence of the violators, which, among other things, formed the evidentiary basis of violation.

### **3rd stage (consideration of the case):**

National antimonopoly bodies participate in the of the case consideration procedures, regardless of the basis for the initiation of the case (*paragraph 11 of the Procedure for Considering Cases of Violation of Competition Rules, approved by the Decision No. 99 of the Eurasian Economic Commission dated November 23, 2012* ).

During the case consideration, representatives of the national antimonopoly bodies familiarized themselves with the case materials, presented evidence and examined the evidence, put questions to other persons involved in the case, filed petitions, gave written or oral explanations, especially with regard to specific features of competition and legislation in the respective EAEU state, presented arguments on all issues arising during the case, familiarized themselves with the petitions of other persons involved in the case (*paragraph 13 of the Procedure for Considering Cases of Violation of Competition Rules, approved by the Decision No. 99*).