



Based on the Article 35, paragraph 1, sub paragraph 1.1 and Article 67, paragraph 6 of the Law 03/L-209 on the Central Bank of the Republic of Kosovo, the Central Bank Board in its meeting held on 29 November 2019, approved the following:

REGULATION ON PROCEDURES FOR IMPOSING ADMINISTRATIVE PENALTIES

Article 1

Purpose and Scope

This Regulation establishes the procedures to be followed by the Central Bank of Kosovo (hereinafter the CBK) in the exercise of its powers in relation to the imposition of administrative penalties as specified in the Law on the CBK or any other law or legal act that authorizes the CBK to impose administrative penalties, except in specific cases where the CBK Executive Board acts pursuant to Article 67.5 of the Law on the CBK.

Article 2

Definitions

1. All terms used in this Regulation have the same meaning as the definitions set forth in the CBK Law and other relevant laws or other legal act, which gives the CBK power to impose administrative penalties, or as set forth below for the purpose of this Regulation:
 - 1.1. Preliminary Notice for Undertaking Punitive Administrative Measures** – shall have the meaning of a statement as set forth in Article 67 paragraph 4 of the Law on the CBK, through which the financial institution or any other entity supervised by CBK, is notified in writing for the legal basis of punitive administrative measures that might be undertaken against him/her, as a result of violation of regulation found in the examinations reports.
 - 1.2 Report** – shall have the meaning of a final document which has been finalized and signed by the CBK's relevant department or division, in the exercise of its oversight powers.

Article 3

The basis for giving Preliminary Notice for Imposing Administrative Penalties

Preliminary Notice for Undertaking Punitive Administrative Measures shall be based on the reports compiled by the relevant departments, namely divisions of the CBK, in the exercise of their oversight powers.

Article 4
Initiating the procedure for administrative penalty

1. The procedure for administrative penalty shall be initiated with the Preliminary Notice for Undertaking Punitive Administrative Measures.
2. Preliminary Notice for Undertaking Punitive Administrative Measures shall be based on the findings identified on the reports foreseen under Article 3 of this Regulation and shall describe in details the facts supporting the existence of violations of legal regulation.
3. The CBK Executive Board shall notify the subject to whom the penalty will be imposed through a Preliminary Notice for Undertaking Punitive Administrative Measures prepared in advance by the relevant CBK departments or divisions, and after being protocolled to the CBK, together with a copy of the report is sent to the address of the subject to which it is addressed.
4. Preliminary Notice for Undertaking Punitive Administrative Measures shall include the legal advice for the subject's right to request, within 15 days from the date of receipt, a review at the CBK Review Division, whereby providing facts and arguments that why punishment should not be imposed.

Article 5
Procedure Development

1. If the subject that received the notice does not exercise the right for requesting the review within 15 days, as specified in paragraph 4 of Article 4 of this Regulation, it shall be considered that the subject has agreed with the Preliminary Notice for Undertaking Punitive Administrative Measures. In that case, the director of the department or the head of the relevant independent division responsible, namely that has prepared the notice, shall, within 15 calendar days, prepare and send the recommendation to the Executive Board for the decision-making, together with clarification that the subject to which the notification was send did not exercise the right for request review within the time frame specified.
2. If the relevant subject exercises its right for requesting the review, the request shall contain all the arguments on the alleged right as in the case of submission of a request in other instances.
3. Review Division shall, within 30 calendar days from the date of receipt of the request, review the request and shall prepare the recommendation for decision-making at the Executive Board. Review Division, for the purpose of examining the facts and arguments, it may require additional clarifications and information, as needed, from the relevant CBK's departments and divisions.

Article 6
Hearing procedure for reviewing the request

1. After receiving the request for review, the Review Division, prior to considering the request for review, upon the request of the party and when it deems necessary, shall enable the subject concerned a verbal declaration in the session organized as regards notification.

2. If the subject concerned is invited according to the rule foreseen under paragraph 1 of this Article, but does not participate in the hearing, the Review Division shall continue the review procedure even without holding the hearing.
3. The Review Division may also decide only on the basis of the request and other evidence submitted by the concerned subject without inviting the relevant subject to the hearing, if the evidence based on the documents may come to the correct determination of the factual situation.
4. If the concerned party takes part in the hearing, he/she shall be allowed to declare and submit any document in the form of evidence that proves the contrary to the findings specified in the Preliminary Notice for Imposing Administrative Penalties.

Article 7

The use of languages in the session

1. Review procedure at the hearing shall be held in one of the official languages defined by the Law on Official Languages in Kosovo, while the subject that filed the request for review shall be entitled to use his/her mother tongue during the hearing.
2. If during the hearing, at the CBK's request is used a language other than official languages, the CBK shall provide an interpreter.

Article 8

Legal rights of the subject

The relevant subject shall have the right for a lawyer or other qualified person to represent him/her in the CBK administrative proceedings.

Article 9

Recommendation and communication for decision-making

1. After completing the necessary procedural actions and when considered that administered evidence are sufficient to come to the recommendation for review of the request for reconsideration, the Review Division shall prepare the recommendation for the Executive Board in accordance with article 5, paragraph 3 of this Regulation.
2. The review procedure is concluded with the Review Division recommendation.
3. The reasoned and signed recommendation by the Head of the Review Division, confirmed by the Legal Department, shall be submitted to the Executive Board through the appropriate reporting line in accordance with the procedure for submitting materials to the Executive Board of the CBK. A copy of this recommendation shall also be submitted to the relevant department or division.
4. The relevant department or division shall prepare a preliminary draft of the decision on administrative penalties, which together with the relevant legal opinion of the Legal Department and the accompanying information, through the relevant reporting line, shall also be submitted to the Executive Board for decision-making in accordance with the procedure for submitting materials to Executive Board of the CBK.

Article 10

Procedure for issuance of the decision to impose administrative penalties

1. As defined in Article 36, paragraph 1, subparagraph 1.12, and Article 67, of the Law on the CBK, the Executive Board, after analysing all recommendations and reports presented, and pursuant to Article 67, paragraph 7 of the Law on CBK, shall make a decision to impose administrative penalties.
2. The decision of the Executive Board for administrative penalties shall be implemented by the subject within the deadline given in that decision.
3. In the case of an administrative penalty that is not a written warning the CBK shall take other steps that are necessary to ensure its implementation.
4. Any monetary penalty shall be paid in the Republic of Kosovo Budget account.
5. The decision to impose administrative penalties shall be in accordance with the Law on General Administrative Procedures.
6. The decision to impose administrative penalties against a legal person shall be addressed to the Head of the Institution, and a copy to the Chairman of the Board of Directors. If a legal entity is a foreign financial institution that operates through a branch in Kosovo, the decision shall be addressed to the Senior Manager in Kosovo, and a copy in English language to the Head of the Institution, at the institution's central office.
7. The decision to impose administrative penalties against a natural person who is a shareholder, member of the Board of Directors, senior manager or employee of a financial institution, shall be addressed to the natural person concerned and a copy to the Chairman of the Board of Directors and to the Head of the Institution. If a natural person is a senior manager or employee of a foreign financial institution, operating through a branch in Kosovo, a copy of the decision shall be addressed to a natural person concerned, Senior Manager in Kosovo and to the Head of the Institution at the institution's central office.

Article 11

Ongoing violations

1. If the violation is of an ongoing nature, the CBK may impose a monetary penalty in accordance with Article 67, paragraph 3 of the Law on the Central Bank of the Republic of Kosovo.
2. In case of non-compliance with the order determined by paragraph 1 of this Article, the CBK shall take other binding measures, as needed for implementation of the tasks entrusted to the Central Bank by the Law on the CBK or any other law.

Article 12

Publication

The Executive Board may decide to publish a decision for imposing administrative penalties if it considers that is necessary to inform the public.

Article 13
Other legal responsibilities

Imposition of administrative penalties by the Executive Board shall not impede civil or criminal liability under the provisions of applicable laws.

Article 14
Cooperation with foreign supervisory authorities

If deemed necessary, the CBK may cooperate with central banks and supervisory authorities in foreign countries, to the extent permitted by the Law on the CBK and other laws regarding the exchange of information relating to the violation.

Article 15
Legal remedies

1. The decision for imposing administrative penalty shall be a final decision in the administrative procedure.
2. Against the decision for imposing administrative penalty, a complaint can be filed in the competent court within the legally prescribed time frame.

Article 16
Applicable law

For any matter that is not governed by this Regulation, the provisions of the Law on General Administrative Procedures shall apply.

Article 17
Abolition

Entry into force of this Regulation abolishes the Regulation on Procedures for Imposing Administrative Penalties dated 28 September 2017.

Article 18
Entry into force

This Regulation shall enter into force fifteen (15) days from the date of its adoption.

Flamur Mrasori

Chairman of the Board of the Central Bank of the Republic of Kosovo

