



International
Competition
Network

ANTI-CARTEL ENFORCEMENT TEMPLATE

CARTELS WORKING GROUP
Subgroup 2: Enforcement Techniques

Lithuania

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ICN ANTI-CARTEL ENFORCEMENT TEMPLATE

IMPORTANT NOTES:

This template is intended to provide information for the ICN member competition agencies about each other's legislation concerning hardcore cartels. At the same time the template supplies information for businesses participating in cartel activities about the rules applicable to them; moreover, it enables businesses which suffer from cartel activity to get information about the possibilities of lodging a complaint in one or more jurisdictions.

Reading the template is not a substitute for consulting the referenced statutes and regulations. This template should be a starting point only.

1. Information on the law relating to cartels

A. Law(s) covering cartels:	Law on Competition, No.VIII-1099, 23/03/1999 with further amendments is available on the homepage of Lithuanian Competition Council (CC) at the address: www.konkuren.lt , in Lithuanian and English languages.
B. Implementing regulation(s) (if any):	<ol style="list-style-type: none"> 1. The Rules concerning the setting of the amount of a fine imposed for the infringement of the Law on Competition of the Republic of Lithuania, approved by the resolution of the Government of the Republic of Lithuania, No. 1591, 6/12/2004. 2. The resolution of the CC of the Republic of Lithuania "On requirements and conditions in respect of agreements of minor importance which are not considered infringing Art. 5 (1) and (2) of the Law on Competition", 9 December 2004, No. 1S-172. They are available on the homepage of Lithuanian CC at the address: www.konkuren.lt, in Lithuanian and English languages. <p>2. On 28 February 2008 the CC passed a resolution No 1S-27 on the "Rules on immunity from fines and reduction of the fines for participants of prohibited agreements". It can be found (only the Lithuanian version) at: http://www.konkuren.lt/index.php?show=nutlrv_view&nut_id=883</p>
C. Interpretative guideline(s) (if any):	None.

D. Other relevant materials (if any):	None.
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2. Scope and nature of prohibition on cartels

<p>A. Does your law or case law define the term “cartel”?</p> <p>If not, please indicate the term you use instead.</p>	<p>Under the Lithuanian Law on Competition, article 3(10) “Agreement” means contracts concluded in any form (written or verbal) between two or more undertakings or concerted actions of undertakings, including decision made by any combination (association, amalgamation, consortium, etc.) of undertakings or by representatives of such a combination. Law on Competition, article 5(1) prohibits all agreements which have as their object the restriction of competition or which may restrict competition (i.e. prohibits both horizontal agreements (cartels) and vertical agreements).</p>
<p>B. Does your legislation or case law distinguish between very serious cartel behaviour (“hardcore cartels” – e.g.: price fixing, market sharing, bid rigging or production or sales quotas¹) and other types of “cartels”?</p>	<p>Agreements, listed in the Law on Competition, article 5(1)(1-4) may be treated as "hardcore cartels":</p> <ol style="list-style-type: none"> 1) agreements to directly or indirectly fix prices of certain goods or other conditions of sale or purchase; 2) agreements to share the product market on a territorial basis, according to groups of buyers, suppliers or in any other way; 3) agreements to fix production or sale volumes for certain goods, as well as to restrict technical development or investment; 4) agreements to apply dissimilar (discriminating) conditions to equivalent transactions with individual undertakings, thereby placing them at a competitive disadvantage. <p>Under the Law on Competition, article 5(2) when concluded between competitors, the agreements listed in subparagraphs 1, 2, 3 and 4 of paragraph 1 hereof shall be in any case considered as restricting competition.</p>
<p>C. Scope of the prohibition of hardcore cartels: [including any exceptions, exclusions and defences e.g. for particular industries or sectors.]</p>	<ol style="list-style-type: none"> 1. Under the Law on Competition, article 6(1): "Article 5 of this Law shall not apply where the agreement promotes technical or economical progress or improves the production or distribution of goods, and thus creates conditions for consumers to receive additional benefit, also where: <ol style="list-style-type: none"> 1) the agreement does not impose restrictions on the activity of the parties thereto, which are not indispensable to the attainment of the objectives referred to in this Article; 2) the agreement does not afford contracting parties the possibility to restrict competition in a large share of the relevant market". 2. The resolution of the CC "On agreements, which satisfy the conditions of the Law on Competition of the Republic of Lithuania, article 6(1) and recognizing of some resolutions of the CC as void", 02/09/2005 No.1S-132.

¹ In some jurisdictions these types of cartels – and possibly some others – are regarded as particularly serious violations. These types of cartels are generally referred to as “hardcore cartels”. Hereinafter this terminology is used.

	The rules on exemptions are the same as those adopted by the European Commission.
D. Is participation in a hardcore cartel illegal <i>per se</i>?	See 2/B.
E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?	Is an administrative offence.

3. Investigating institution(s)

A. Name of the agency, which investigates cartels:	Competition Council of the Republic of Lithuania.
B. Contact details of the agency:	Address: A.Vienuolio str. 8, LT-01104 Vilnius, Lithuania. Tel. No. +370 5 2126492. Fax. No.+370 5 2126492. E-mail: tarnyba@konkuren.lt. Website address: www.konkuren.lt. The website is available on Lithuanian and English languages.
C. Information point for potential complainants:	The Cartel Division of the CC. Address: A.Vienuolio str. 8, LT-01104 Vilnius, Lithuania. Tel. No.+370 5 2608879.
D. Contact point where complaints can be lodged:	The complaints can be lodged in the premises of the CC. Address: A. Vienuolio st 8, Lt-01104, Vilnius; Room no 204.
E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.	No.

4. Decision-making institution(s)² [to be filled in only if this is different from the investigating agency]

² Meaning: institution taking a decision on the merits of the case (e.g. prohibition decision, imposition of fine, etc.)

A. Name of the agency making decisions in cartel cases:	
B. Contact details of the agency:	
C. Contact point for questions and consultations:	
D. Describe the role of the investigating agency in the process leading to the sanctioning of the cartel conduct.	
E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?	

5. Handling complaints and initiation of proceedings

A. Basis for initiating investigations in cartel cases: [complaint, ex officio, leniency application, notification, etc.]	The investigation can be started on the basis of: A) ex officio; B) complaint; C) leniency application.
B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)?	All the complaints should be made in writing. There isn't any specific form to be filled in. In a written application must be specified the known facts and circumstances of restrictive practices and the documents confirming these facts must be attached to the application. In case of leniency application the information which must be provided in detail including all undertakings involved in cartel agreement, nature of the cartel agreement, etc. Documents or other evidences confirming these facts must be also submitted.
C. Legal requirements for lodging a complaint against a cartel: [e.g. is legitimate interest required, or is standing to make a complaint limited to certain categories of complainant?]	Under the Law on Competition, article 24(1), the right of request to start investigation of restrictive practices (including cartels) shall be vested in: 1) undertakings whose interests have been violated due to restrictive practices; 2) public and local authorities; 3) associations and unions representing the interests of undertakings and consumers. In leniency case applications must be submitted by the undertaking participating in a cartel.
D. Is the investigating	Under the Law on Competition, article 25(3) the CC must

<p>agency obliged to take action on each complaint that it receives or does it have discretion in this respect?</p>	<p>examine applications filed with respect to the restrictive practices not later than within 30 days from submission of the application and documentation and take a decision to start or to refuse to start the investigation.</p> <p>Under the Law on Competition, article 25(4) the refusal to start investigation follows, if:</p> <ol style="list-style-type: none"> 1) the facts indicated in the application are immaterial, causing no substantial damage to the interests protected under this Law; 2) investigation of the facts specified in the application is not within the CC's remit; 3) the facts specified in the application have already been investigated and a resolution has already been taken on the issue; 4) the applicant has failed to provide, within the time period set by the CC, the data and documents required in order to initiate the investigation; 5) there are no data available allowing to reasonably suspect the infringement of the Law.
<p>E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?</p>	<p>Yes, the CC is obliged to take a justified decision to refuse to investigate the restrictive practices.</p>
<p>F. Is there a time limit counted from the date of receipt of a complaint by the competition agency for taking the decision on whether to investigate or reject it?</p>	<p>Yes, the decision must be made within 30 days.</p>

6. Leniency policy³

<p>A. What is the official name of your leniency policy (if any)?</p>	<p>“Rules on immunity from fines and reduction of the fines for participants of prohibited agreements”. It can be found (only the Lithuanian version) at: http://www.konkuren.lt/index.php?show=nutrv_view&nut_id=883</p>
<p>B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction/fine), depending</p>	<p>The Law on Competition, Article 43(1) foresees full exemption from fine and the Rules concerning the setting of the amount of a fine imposed for the infringement of the Law on Competition of the Republic of Lithuania approved by the resolution of the Government of the Republic of Lithuania foresees partial</p>

³ For the purposes of this template the notion of ‘leniency’ covers both full leniency and a reduction in the sanction or fines. Moreover, for the purposes of this template terms like ‘leniency’ ‘amnesty’ and ‘immunity’ are considered as synonyms.

<p>on the case?</p>	<p>exemption from fine.</p> <p>Cases in which full immunity or partial immunity may be applied are described in detail in the Rules on immunity.</p>
<p>C. Who is eligible for full leniency?</p>	<p>Under the Law on Competition, Article 43(1) the undertaking which is a party to a prohibited agreement between competitors shall be exempted from fines provided for in respect of the infringement upon presenting to the CC full information relating to the agreement if all the following conditions are satisfied:</p> <ol style="list-style-type: none"> 1) the undertaking provides information prior to the beginning of investigation of the agreement; 2) the undertaking is the first of the parties to the prohibited agreement to provide such information; 3) the undertaking provides complete information available to it regarding the prohibited agreement and co-operates with the CC during the investigation; 4) the undertaking has not been the initiator of the prohibited agreement and has not induced other undertakings to participate in such an agreement.
<p>D. Is eligibility for leniency dependent on the enforcing agency having either no knowledge of the cartel or insufficient knowledge of the cartel to initiate an investigation?</p> <p>In this context, is the date (the moment) at which participants in the cartel come forward with information (before or after the opening of an investigation) of any relevance for the outcome of leniency applications?</p>	<ol style="list-style-type: none"> 1. See 6/C. The Rules on immunity from fines and reduction of the fines for participants of prohibited agreements explains in more detail when an undertaking shall be granted the immunity from a fine. One of the necessary conditions is that at the time of the application to the CC, the Resolution to initiate the investigation must not yet be passed by the CC. 2. Also under the Rules concerning the setting of the amount of a fine imposed for the infringement of the Law on Competition of the Republic of Lithuania approved by the resolution of the Government of the Republic of Lithuania: <p>“6. A fine set under Section II of the Rules shall be reduced in respect of the undertaking, which is a party to a prohibited agreement between competitors where such undertaking provides complete information available to it regarding the prohibited agreement and co-operates with the CC during the investigation.</p> <p>7. A fine shall be reduced from 50 % to 75 % where the CC has taken the decision to start the investigation of the prohibited agreement between the competitors and the undertaking meets all of the following conditions:</p> <ol style="list-style-type: none"> 7.1. the undertaking is the first of the parties to the prohibited agreement between competitors, which has supplied all the available information on the prohibited agreement; 7.2. the undertaking supplies the proof of the prohibited agreement between competitors which is not available to the CC and which is material for the purpose of the proof of the prohibited agreement; 7.3. the undertaking has not been the initiator of the prohibited agreement and has not induced other undertakings to participate in such an agreement. <p>8. A fine shall be reduced from 20 % to 50 % if the undertaking, which is a party to a prohibited agreement, supplies the proof of the prohibited agreement not available to the CC and which is material for the purpose of the proof of the prohibited agreement”.</p> <p>A fine reduction in 50 % shall be applied when the leniency applicant is an initiator of the prohibited agreement or has</p>

	<p>induced other undertakings to participate in such an agreement; and:</p> <ol style="list-style-type: none"> 1) provides information prior to the beginning of the investigation of the agreement; 2) is the first of the parties to the prohibited agreement to provide such information; 3) provides complete information available to it regarding prohibited agreement and co-operates with the CC during the investigation.
E. Who can be a beneficiary of the leniency program (individual/businesses)?	The undertakings.
F. What are the conditions of availability of full leniency:	See 6/C.
G. What are the conditions of availability of partial leniency (such as reduction of sanction/fine/imprisonment):	See 6/D/2.
H. Obligations for the beneficiary after the leniency application has been accepted:	<p>Under the Law on Competition, article 43(3) the CC, having completed the investigation and when adopting the final resolution on the infringement shall decide, whether the conditions specified herein have been met and the undertaking qualifies for exemption from fines.</p> <p>Under the Rules concerning the setting of the amount of a fine imposed for the infringement of the Law on Competition of the Republic of Lithuania approved by the resolution of the Government of the Republic of Lithuania:</p> <p>“6. A fine set under Section II of the Rules shall be reduced in respect of the undertaking, which is a party to a prohibited agreement between competitors where such undertaking provides complete information available to it regarding the prohibited agreement and co-operates with the CC during the investigation.</p> <p>Following the Rules on immunity the obligation to co-operate is fulfilled if the undertaking-applicant:</p> <ol style="list-style-type: none"> 1) terminates participation in the agreement immediately after submission of the application to the CC except if the CC decides and orders otherwise; 2) from the submission of the leniency application until the end of the investigation it constantly and without reservations co-operates with the CC – immediately submits to the CC any information and evidences which become known to it; answers any questions and gives any other explanations that are necessary for the investigation; ensures the possibility to question the former or present employees, etc.; 3) does not destroy, falsify or conceal evidences or other information necessary for the investigation; 4) does not disclose the fact that the leniency application is submitted.
I. Are there formal requirements to make a	The Rules on immunity from fines and reduction of the fines for participants of prohibited agreements explains the

leniency application?	procedure for handling in an application to qualify for the immunity from a fine or reduction of a fine. Leniency applications must be made in writing, providing all the information related to the agreement.
J. Are there distinct procedural steps within the leniency program?	There are no distinct procedural steps within the leniency program. The CC after receiving the information regarding the prohibited agreement initiates the investigation. When during investigation the undertaking cooperates with the Competition Council on purpose exempting from a fine, the CC having completed the investigation and adopting the final resolution on the infringement decides, whether the conditions specified in the Law on Competition and explained in more detail in the Rules on immunity from fines and reduction of the fines for participants of prohibited agreements have been met and the undertaking qualifies for exemption from fines or reduction of fines.
K. At which time during the application process is the applicant given certainty with respect to its eligibility for leniency, and how is this done?	See 6/J. The item 20 of the Rules on immunity from fines and reduction of the fines for participants of prohibited agreements establishes the 30 days period during which having received the receipt of the request to exempt from a fine the CC adopts a decision that the request to exempt from a fine meets the requirements for full immunity on a conditional basis, and informs an applicant thereafter by also specifying that it may be exempted from a fine if all other conditions and obligations related to the co-operation with the CC during the investigation, etc. are fulfilled. The item 21 of the same Rules states that when the CC adopts a decision that the request to exempt from a fine does not meet the conditions for full immunity from a fine, an undertaking which submitted the request is informed of such a decision and notified that it may withdraw the evidence disclosed for the purposes of its immunity application or request to consider it under the conditions for reduction of a fine.
L. What is the legal basis for the power to agree to grant leniency? Is leniency granted on the basis of an agreement or is it laid down in a (formal) decision? Who within the agency decides about leniency applications?	The Law on Competition, article 43 (1) and the Rules concerning the setting of the amount of a fine imposed for the infringement of the Law on Competition of the Republic of Lithuania, section III, the Rules on immunity from fines and reduction of the fines for participants of prohibited agreements. the final decision regarding the exemption from a fine or reduction a fine and exact amount of it or refuse to grant immunity from a fine or reduction of a fine in accordance with the Rules shall be adopted by the CC in a hearing of a case concerning investigation of the infringement of the Law, in which a decision to establish an infringement of Art. 5 of the Law on Competition and (or) Art. 81 EC Treaty and impose sanctions provided for in the Law on Competition shall be adopted. Also see 6/J.
M. Does your legislation have a marker system? If	Applicant initially can apply for the „marker” which can be granted both to the immunity applicants and to the applicants for the reduction of a fine.

yes, please describe it.	Applicant has to provide a written application filled with the following information: 1) it's name and address; 2) names and addresses of other participants of the agreement; 3) information about relevant goods, services and territories; 4) information about the duration of the agreement; 5) nature of the agreement. The list of the evidences that later will be submitted also must be provided. If the „marker” application complies with these requirements, the CC has discretion to set the period of time (usually not longer than 15 days) during which full application must be submitted.
N. Does the system provide for any extra credit⁴ for disclosing additional violations?	No.
O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.	Item 30 of the Rules on immunity from fines and reduction of the fines for participants of prohibited agreements: “The fact of the request submitted by an undertaking to exempt from a fine or to reduce a fine and the content herein shall be treated confidentially and undisclosed to other parties to an alleged prohibited agreement or other persons until the completion of the investigation of the prohibited agreement, unless the undertaking itself has permitted such information to be disclosed. Upon completion of the investigation of the alleged agreement, the parties to the proceedings may be provided access to the content of the request to be immune from a fine or to reduce a fine to the effect of exercising right to defence.
P. Is there a possibility of appealing an agency's decision rejecting a leniency application?	Yes.
Q. Contact point where a leniency application can be lodged:	Address: A.Vienuolio str. 8, Vilnius, Lithuania. Tel. No. +3702126492. Fax. No.+3702126492. E-mail: tarnyba@konkuren.lt
R. Does the policy address the possibility of leniency being revoked? If yes, describe the circumstances where revocation would occur. Can an appeal be made against a decision to revoke leniency?	Item 11 of the Rules on immunity from fines and reduction of the fines for participants of prohibited agreements: “Fine imposed on the undertaking shall not be reduced if during the investigation it is established that the undertaking when contemplating of or making its application to the CC, destroyed, falsified or concealed evidence of the alleged prohibited agreement and (or) disclosed the fact or any of the content of its contemplated application, except to other competition authorities of the EU and (or) European Commission”.

⁴ Also known as: “leniency plus”, “amnesty plus” or “immunity plus”. This category covers situations where a leniency applicant, in order to get as lenient treatment as possible in a particular case, offers to reveal information about participation in another cartel distinct from the one which is the subject of its first leniency application.

<p>S. Does your policy allow for “affirmative leniency”, that is the possibility of the agency approaching potential leniency applicants?</p>	<p>Not prohibited.</p>
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7. Investigative powers of the enforcing institution(s)⁵

<p>A. Briefly describe the investigative measures available to the enforcing agency such as requests for information, searches/raids⁶, electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.</p>	<p>Under the Law on Competition, article 26: "1. The authorised officers of the CC, carrying out the investigation, shall be empowered: 1) to enter and to check any premises, land and means of transport used by the undertaking; 2) to examine the documents of the undertaking under investigation required for investigation, get their copies and extracts, be given access to the notes of the employees of the undertaking, also copy the above notes as well as information stored in computers and magnetic disks; 3) to get oral and written explanations from the persons connected with the activity of the undertakings under investigation, summon them to the office of the investigating officer to give explanations; 4) to get from other undertakings, regardless of their subordination, data and documents or copies thereof relating to the economic operations of the undertaking under investigation, also from public and local authorities; 5) to audit (carry out an inspection of) the economic activity of the undertaking and obtain findings regarding the material of inspection from the institutions responsible for expert examination; 6) to take possession of any documents and articles having evidential value in the investigation of the case; 7) to enlist the assistance of specialists and experts in carrying out the investigation; 8) acting in compliance with the procedure established by law, use technical means for investigation purposes. 2. The actions of investigation specified in subparagraphs 1 and 2 of paragraph 1 hereof may be carried out only with the warrant of the judge."</p>
<p>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this require authorisation by a court?</p>	<p>The possibility to inspect private residences, automobiles and other territories or premises is provided in the amendments of the Law on Competition No. XI – 216, 9/4/2009, published in the “Valstybės žinios” (Official Gazette) No. 46-1795, 25/4/2009.</p> <p>These investigative actions may be carried out only having a court authorisation.</p> <p>The CC does not have a right to search persons.</p>

⁵ “Enforcing institutions” may mean either the investigating or the decision-making institution or both.

⁶ “Searches/raids” means all types of search, raid or inspection measures.

<p>C. May evidence not falling under the scope of the authorisation allowing the inspection be seized/used as evidence in another case? If yes, under which circumstances (e.g. is a post-search court warrant needed)?</p>	<p>Yes.</p>
<p>D. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.</p>	<p>No.</p>

8. Procedural rights of businesses/individuals

<p>A. Key rights of defence in cartel cases:</p>	<p>Under the Law on Competition, Article 34(1), at the stages of investigation and hearing of the case the parties to the proceedings shall have the right to be heard and to give explanations both in writing and orally. Upon the completion of the investigation the parties to the proceedings shall be presented with the written findings of the authorised officer and shall be provided access to the documents of the case, other than those containing commercial secrets of another undertaking. In such cases the consent of this undertaking shall be required.</p>
<p>B. Protection awarded to business secrets (competitively sensitive information): is there a difference depending on whether the information is provided under a compulsory legal order or provided under informal co-operation?</p>	<p>Under Law on Competition, Article 22(1), commercial secrets disclosed to the CC and its administrative staff during their exercise of control over compliance with this Law must be kept confidential and, in the absence of the undertaking's consent, must be used only for the purpose the information was provided.</p> <p>Under the Law on Competition, Article 34(2) the parties to the proceedings and other persons participating in the case shall have the right to make an application to the CC at any stage of investigation and hearing of the case, requesting protection of their commercial secrets. The CC or its authorised officer must make a justified decision on the protection of commercial secrets and notify the applicant thereof. The applicant may be obligated to produce within the set time period an extract of the document omitting commercial secrets, which shall be appended to the case.</p>

9. Limitation periods and deadlines

<p>A. What is the limitation period (if any) from the date of the termination of the infringement by which the investigation/proceedings must begin or a decision in the merits of the case must be made?</p>	<p>Under the Law on Competition, article 40(3), for violation of this Law an action may be brought against undertakings not later than within three years from the date of infringement, and in case of continued violation - from the date of performance of the last acts.</p>
<p>B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision in the merits?</p>	<p>Under the Law on Competition, article 25(6) the CC must complete the investigation not later than within 5 months from the commencement thereof. The CC may extend the period by a justified resolution each time by up to three months.</p>
<p>C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an investigation or a decision regarding sanctions?</p>	<p>Under the Law on Competition, article 38:</p> <p>"1. The undertakings as well as other persons who believe that their rights protected by this Law have been violated shall have the right to appeal to the Vilnius Regional Administrative Court against the resolutions of the CC. The parties to the proceedings shall have the right to appeal against the resolutions of the CC adopted pursuant to article 36 of this Law.</p> <p>2. A written complaint shall be lodged not later than within 20 days after the delivery of the resolution or publication of its operative part in "Valstybės žinios" (the "Official Gazette")."</p>

10. Types of decisions

<p>A. Please list which types of decisions on the merits of the case can be made in cartel cases under the laws listed under Section 1.</p>	<p>Under the Law on Competition, Article 40(1) upon establishing that undertakings have engaged in conduct prohibited under this Law or have otherwise infringed this Law, the CC following the principles of impartiality and proportionality shall have the right:</p> <p>1) to place the undertakings under an obligation to end illegal activity, to carry out actions restoring the previous situation or eliminating consequences of infringement, including the obligation to cancel, amend or conclude contracts, also to set the time limit and lay down the conditions for meeting the above obligations;</p> <p>2) to impose fines on undertakings fixed by Law on Competition.</p>
<p>B. Please list which types of decisions on the merits of the case can be made in hardcore cartel cases under the laws listed under Section 1 (if different from those</p>	<p>See 10/A.</p>

listed under 10/A).	
<p>C. Can interim measures⁷ be ordered during the proceedings in cartel cases? (if different measures for hardcore cartels please describe both⁸.) Which institution (the investigatory/the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?</p>	<p>Under the Law on Competition, Article 28:</p> <p>"1. In cases, where there is sufficient evidence of infringement of the Law on Competition, the CC, seeking to prevent substantial or irreparable damage to the interests of undertakings or public interests, shall have the right to apply interim measures necessary for the implementation of the final decision of the CC. The application of interim measures shall cease upon the payment of the penalties imposed by the resolution of the CC adopted after the investigation of the case.</p> <p>2. In cases provided for in paragraph 1 hereof the CC shall have the right to apply the following interim measures with respect to the undertaking suspected of infringement of the Law on Competition:</p> <p>1) to obligate the undertakings to cease an illegal activity;</p> <p>2) upon being issued a warrant by the judge of the Vilnius Regional Administrative Court, to obligate the undertakings to perform certain actions if failure to perform same would result in serious damage to other undertakings or public interests or incur irreparable consequences.</p> <p>3. Before adopting a resolution to apply interim measures, the CC shall give the undertaking suspected of infringement of the Law on Competition an opportunity to make representations."</p>

11. Sanctions for procedural breaches (non-compliance with procedural obligations)⁹

<p>A. Grounds for the imposition of procedural sanctions/fines:</p>	<p>Under the Law on Competition, Article 41(3) a fine of up to 1 per cent of the gross annual income in the preceding business year may be imposed by the CC upon undertakings for not providing information required for investigation or for examination of concentration, also for providing incorrect and incomplete information in cases stipulated by this Law, for obstructing the officers of CC from entering and checking the premises land and means of transport used by the undertaking, to inspect or take possession of any documents and articles having evidential value in the investigation of the case.</p>
<p>B. Type and nature of the sanction (civil, administrative, criminal, combined):</p>	<p>Administrative sanctions.</p>

⁷ In some jurisdictions, in cases of urgency due to the risk of serious and irreparable damage to competition, either the investigator or the decision-making agency may order interim measures prior to taking a decision on the merits of the case [e.g.: by ordering the immediate termination of the infringement].

⁸ Only for agencies which answered "yes" to question 2.C. above

⁹ In some jurisdictions non-compliance with procedural obligations (e.g. late provision of requested information, false or incomplete provision of information, lack of notice, lack of disclosure, obstruction of justice, destruction of evidence, challenging the validity of documents authorizing investigative measures, etc.) can be sanctioned.

C. On whom can procedural sanctions be imposed?	The procedural sanctions can be imposed on the undertakings.
D. Criteria for determining the sanction/fine:	See 12/B.
E. Are there maximum and/or minimum sanctions/fines?	Under the Law on Competition, Article 41(3) may be imposed a fine of up to 1 per cent of the gross annual income in the preceding business year.

12. Sanctions on the merits of the case

A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined): On whom can sanctions be imposed?	Administrative sanctions. Sanctions are imposed on undertakings.
B. Criteria for determining the sanction/fine: [e.g.: gravity, duration of the violation, benefit gained from the violation]	Under the Law on Competition, Article 42(1) in setting the amount of a fine imposed on undertakings, regard shall be had to: 1) the gravity of the infringement; 2) duration of the infringement; 3) circumstances extenuating or aggravating the liability of an undertaking; 4) influence of each undertaking in the commission of the infringement, if the infringement has been committed by several undertakings. 2. Voluntarily putting an end to the effect of detrimental consequences of infringement after the commission thereof, rendering of assistance to the CC in the course of investigation, compensation for the losses or elimination of damage shall be considered as extenuating circumstances. 3. Obstruction of investigation, concealment of the committed infringement, failure to put an end to infringement notwithstanding the obligation by the CC to discontinue illegal actions or repeated commission of the infringement for which the undertakings have been subjected to penalties provided for in this Law shall be considered as aggravating circumstances. 4. When setting the amount of a fine, the CC may also recognise other circumstances not indicated herein as extenuating."
C. Are there maximum and/or minimum sanctions/fines?	Under the Law on Competition Article 41(1) a fine of up to 10 percent of the gross annual income in the preceding business year shall be imposed by the CC upon undertakings for prohibited agreements.
D. Guideline(s) on calculation of fines:	The Rules concerning the setting of the amount of a fine imposed for the infringement of the Law on Competition of the Republic of Lithuania approved by the Resolution of the Government of the Republic of Lithuania, No. 1591,

	6/12/2004. Available at: www.konkuren.lt in Lithuanian and English.
<p>E. Does a challenge to a decision imposing a sanction/fine have an automatic suspensory effect on that sanction/fine? If it is necessary to apply for suspension, what are the criteria?</p>	<p>A challenge of a decision does not presuppose an automatic suspensory effect of the sanction. The CC resolutions are implemented notwithstanding the challenge of a decision. The decision to suspend the implementation might be determined only by the Vilnius Regional Administrative Court decision. There are general criteria of resolution enforcement security regulated under the Law on Administrative Proceedings. Article 37 stipulates that the Court by the motivated request of the process party or by its own initiative may assume measures of resolution enforcement security. One of the enforcement security measures is suspension of execution under the receiving order. The enforcement may be secured on any stage of the process when the resolution implementation might become weighting or even impossible.</p> <p>In practice of Competition Law enforcement the Court mostly suspends the enforcement of resolutions regarding obligations to perform particular actions, to change the agreement and the like. However challenges to a decision imposing a fine in the most part are not suspended by the Court.</p>

13. Possibilities of appeal

<p>A. Does your law provide for an appeal from a decision that there has been a violation of a prohibition of cartels? If yes, what are the grounds of appeal, such as questions of law or fact or breaches of procedural requirements?</p>	<p>Under the Law on Competition, Article 38:</p> <ol style="list-style-type: none"> 1. The undertakings as well as other persons who believe that their rights protected by this Law have been violated shall have the right to appeal to the Vilnius Regional Administrative Court against the resolutions of the CC. The parties to the proceedings shall have the right to appeal against the resolutions of the Competition Council adopted pursuant to Article 36 of this Law. 2. A written complaint shall be lodged not later than within 20 days after the delivery of the resolution or publication of its operative part in "Valstybės žinios" (the "Official Gazette")."
<p>B. Before which court or agency should such a challenge be made?</p>	<p>The appeal should be made to the Vilnius Regional Administrative Court.</p>