



**International  
Competition  
Network**

**ANTI-CARTEL  
ENFORCEMENT  
TEMPLATE**

**CARTELS WORKING GROUP  
Subgroup 2: Enforcement Techniques**

**Bosnia and Herzegovina**

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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

<b>A. Law(s) covering cartels:</b>	Act on Competition of Bosnia and Herzegovina (Article 4), available in Serbian, Croatian, Bosnian and English languages at our website: <a href="http://www.bihkonk.gov.ba">www.bihkonk.gov.ba</a>
<b>B. Implementing regulation(s) (if any):</b>	Regulation on Agreements of Minor Importance; Regulation on Block Exemptions Granted to Certain Categories of Horizontal Agreements; Regulation on Block Exemption Granted to Certain Categories of Vertical Agreements; Regulation on the Procedure for Granting Immunity from Fines (Leniency Policy); These Regulations as well as the BiH Act on Competition are available in English, Bosnian, Croatian and Serbian languages at our website <a href="http://www.bihkonk.gov.ba">www.bihkonk.gov.ba</a> .
<b>C. Interpretative guideline(s) (if any):</b>	There are no interpretative guidelines in the area of prohibited agreements (cartels).
<b>D. Other relevant materials (if any)</b>	No.

## 2. Scope and nature of prohibition on cartels

<p><b>A. Does your law or case law define the term “cartel”?</b></p> <p><b>If not, please indicate the term you use instead.</b></p>	<p>Instead of term "cartel", the term "prohibited agreements" is used in Article 4 of the Act on Competition of BiH.</p> <p>In the Article 4 of the Act on Competition is stated the following:</p> <p>"(1) There shall be prohibited all agreements, contracts, single provision of agreements or contracts, concerted practices, explicit and tacit agreements between the undertakings, as well as decisions by associations of undertakings (hereinafter: agreements) the object or effect of which is to prevent, restrict or distort market competition in the relevant market, and in particular those which:</p> <ul style="list-style-type: none"> <li>a) directly or indirectly fix purchase and selling prices or any other trading conditions;</li> <li>b) limit or control the production, markets, technical development or investment;</li> <li>c) share markets or sources of supply;</li> <li>d) apply dissimilar conditions to equivalent transactions with other undertakings, thereby placing them at a competitive disadvantage;</li> <li>e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts." </li></ul>
<p><b>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 quotas<sup>1</sup>) and other types of “cartels”?</b></p>	<p>No.</p>
<p><b>C. Scope of the prohibition of hardcore cartels:</b></p>	<p>There are no exceptions to the ban on hardcore cartels.</p>
<p><b>D. Is participation in a hardcore cartel illegal <i>per se</i>?</b></p>	<p>Yes, it is.</p>
<p><b>E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?</b></p>	<p>Participation in a hardcore cartel is a civil and administrative offence.</p>

<sup>1</sup> 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.

### 3. Investigating institution(s)

<b>A. Name of the agency, which investigates cartels:</b>	The Council of Competition of Bosnia and Herzegovina
<b>B. Contact details of the agency:</b>	Radiceva 8/4 71000 Sarajevo Bosnia and Herzegovina Tel.: +387 33 251 406 Fax: +387 33 251 408 e-mail: kontakt@bihkonk.gov.ba www. bihkonk.gov.ba
<b>C. Information point for potential complainants:</b>	See 3B above.
<b>D. Contact point where complaints can be lodged:</b>	See 3B above.
<b>E. Are there other authorities which may assist the investigating agency?</b>	The assistance of the police can be requested for dawn raids. Also, any government body may be requested to assist the investigation process by providing certain data needed for the analysis.

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

<b>A. Name of the agency making decisions in cartel cases: [if there is more than one agency, please describe the allocation of responsibilities.]</b>	
<b>B. Contact details of the agency: [address, telephone and fax including the country code, email, website address and languages</b>	

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

available on the website]	
<b>C. Contact point for questions and consultations:</b>	
<b>D. Describe the role of the investigating agency in the process leading to the sanctioning of the cartel conduct.</b>	
<b>E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?</b>	

## 5. Handling complaints and initiation of proceedings

<b>A. Basis for initiating investigations in cartel cases:</b>	The Council of Competition initiates investigations pursuant to BiH Act on Competition, ex officio or on the basis of complaint (request for the initiation of the proceedings). (Article 27 of the Act on Competition)
<b>B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)?</b>	There is no prescribed form, but all important facts have to be stated. The complaints have to be submitted in writing, personally, by post or by fax. (Article 28 of the Act on Competition).
<b>C. Legal requirements for lodging a complaint against a cartel:</b>	Any legal and natural person may submit a complaint (request for the initiation of the proceedings). (Article 27, paragraph (3) of the Act on Competition)
<b>D. Is the investigating agency obliged to take action on each complaint that it receives or does it have discretion in this respect?</b>	Yes. Every complaint has to be handled as a proceeding.
<b>E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?</b>	Yes. The Council of Competition has to adopt a decision explaining why does not the proceeding be initiated, and addressed it to complainant (the party who submitted the request).
<b>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?</b>	The Council of Competition is obliged to make the resolution on instituting the proceedings or reject the complaint (request) within 15 days upon the receipt of complete and orderly complaint (request).

## 6. Leniency policy<sup>3</sup>

<p><b>A. What is the official name of your leniency policy (if any)?</b></p>	<p>Regulation on the Procedure for Granting Immunity from Fines (Leniency Policy) - published in Official Gazette of BiH, No.15/06, also available at web site <a href="http://www.bihkonk.gov.ba">www.bihkonk.gov.ba</a></p>
<p><b>B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction / fine), depending on the case?</b></p>	<p>Yes (article 2 and 13 of Leniency Policy).</p>
<p><b>C. Who is eligible for full leniency [only for the first one to come forward or for more participants in the cartel]?</b></p>	<p>Only the first one (article 4, paragraph 2 of Leniency Policy).</p>
<p><b>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?</b></p> <p><b>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?</b></p>	<p>It is dependant on the enforcing agency having no knowledge of the cartel (article 2 of Leniency Policy).</p> <p>Moment at which participant in the cartel come forward with information is relevant. Leniency Policy may be applied only in case if Council of Competition, based on its information, can initiate proceeding (article 2 of Leniency Policy).</p>
<p><b>E. Who can be a beneficiary of the leniency program (individual / businesses)?</b></p>	<p>Businesses (article 1 paragraph 2 of Leniency Policy), but also individuals (article 23 of Leniency Policy - The provisions of this Regulation shall be applied also to the responsible persons in the undertakings under Article 48, paragraph (2) of the Act on Competition).</p>
<p><b>F. What are the conditions of availability of full leniency:</b></p>	<p>Article 3 of Leniency Policy</p> <p>(1)An undertaking , an applicant for immunity from fines must fulfil the following conditions at the moment of submission of application to the Council of Competition:</p> <p>a) to end all its activities related to the agreement that</p>

<sup>3</sup> 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>violates competition;</p> <p>b) the undertaking must not inform other parties to the agreement concerned on its application;</p> <p>c) the undertaking must cooperate fully, on a continuous basis and expeditiously throughout the proceedings and provide the evidences and information in its possession or under its control, including all forms of information which prove the existence of infringement of Article 4 paragraph (1) of the Act.</p> <p>(2) Any oral, written or electronic communication with the Council of Competition shall be considered as the application for immunity from fines.</p>
<p><b>G. What are the conditions of availability of partial leniency (such as reduction of sanction / fine / imprisonment):</b></p>	<p>Article 14 of Leniency Policy</p> <p>In order to ensure that the application for reduction of fines shall be taken in consideration, an undertaking is obliged to:</p> <p>a) provide the Council of Competition with information that supports the evidences already in possession of the Council of Competition regarding the character or completeness of the evidences; and</p> <p>b) terminate all further participation in illegal activities that are under investigation, according the conditions set by the Council of Competition.</p>
<p><b>H. Obligations for the beneficiary after the leniency application has been accepted: [e.g. ongoing, full cooperation with the investigating agency during the proceedings, etc.]</b></p>	<p>Article 9</p> <p>(1) Upon receiving a decision on granted conditional immunity from fines, an undertaking is obliged to provide the Council of Competition with all evidences in its possession.</p> <p>(2) The Council of Competition may not use the evidence from paragraph (1) of this Article against the undertaking that is the applicant for immunity from fines.</p>
<p><b>I. Are there formal requirements to make a leniency application?</b></p>	<p>Article 3 paragraph (2) of Leniency Policy</p> <p>Any oral, written or electronic communication with the Council of Competition shall be considered as the application for immunity from fines.</p>
<p><b>J. Are there distinct procedural steps within the leniency program? [e.g.: provisional guarantee of leniency – PGL – and further steps leading to a final leniency agreement / decision)?]</b></p>	<p>Yes.</p>
<p><b>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?</b></p>	<p>An undertaking as an applicant for immunity from fines must provide the Council of Competition with the facts in draft form of the case concerned. In the initial stage, an undertaking may use general information in order to protect its anonymity. If the Council of Competition decides that an undertaking seeking to obtain immunity from fines meets these conditions and if that undertaking is willing to continue the cooperation delivering compulsorily a full description of the illegal activities, as</p>

	appropriate, the Council of Competition shall, on the basis of findings in the said description, grant the undertaking conditional immunity from fines in its relevant decision.
<b>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?</b>	Leniency is laid down in a formal decision. Decisions about Leniency applications are made by Councillors in session of the Council of Competition. (see above)
<b>M. Does your legislation have a marker system? If yes, please describe it.</b>	<p>Regulation on the procedure for granting immunity from fines (Leniency policy) defines the procedure and conditions for granting immunity from fines or reducing the fines in cases when an undertaking participates in an agreement from Article 4 paragraph (1) of the Act on Competition.</p> <p>This Regulation is applied to undertakings defined by Article 2 of the Act which cooperate voluntarily with the Council of Competition and provide it with evidences necessary for making a decision on infringement of the provisions defined in Article 4 paragraph (1) of the Act.</p>
<b>N. Does the system provide for any extra credit<sup>4</sup> for disclosing additional violations? [e.g. a hardcore cartel in another market]</b>	No.
<b>O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.</b>	<p>Yes.</p> <p>Article 21</p> <p>(1) In its final decision, the Council of Competition shall state every kind of cooperation provided by an undertaking during the proceedings so as to explain the grounds for granting the immunity from or reduction of a fine to that undertaking.</p> <p>(2) This part of the final decision shall not be published due to the infringement of the Act on Competition.</p>
<b>P. Is there a possibility of appealing an agency's decision rejecting a leniency application?</b>	No.
<b>Q. Contact point where a leniency application can be lodged [telephone and fax including the country code, plus out of</b>	<p>T: ++ 387 33 251 406</p> <p>F: ++ 387 33 251 408</p>

<sup>4</sup> 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.

<b>hours contacts (if any):</b>	
<b>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?</b>	No.
<b>S. Does your policy allow for “affirmative leniency”, that is the possibility of the agency approaching potential leniency applicants?</b>	It does not elaborate it separately; it is not forbidden, but it is also not allowed.

## 7. Investigative powers of the enforcing institution(s)<sup>5</sup>

<b>A. Briefly describe the investigative measures available to the enforcing agency such as requests for information, searches/raids<sup>6</sup>, electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.</b>	<p>Article 35 of Act on Competition (Official Gazette of BiH, No. 48/05, also available at <a href="http://www.bihkonk.gov.ba">www.bihkonk.gov.ba</a>)</p> <p>Article 35</p> <p>Collection of Data</p> <p>(1) In the course of the proceedings, at the request of the Council of Competition, the official person, parties and other legal and natural persons are obliged to:</p> <p>a) submit all the required data such as written statements and documents, disregarding the media they are announced in;</p> <p>b) ensure direct access to all business premises, movable and immovable property, business books, databases and other documents, without being obstructed by business, state or technical secret;</p> <p>c) submit all the necessary data from the other persons which could contribute to solving and explaining certain issues on prevention, limitation or distortion of market competition;</p> <p>d) ensure the carrying out of all other duties considered necessary for the purpose of stating all the relevant facts to the procedure.</p> <p>(2) If there is a reasonable doubt that any of the parties to the proceeding or other persons hold in possession documents or other instruments relevant to the establishing of the substantive facts in the proceedings, and they do not want to produce these documents for inspection, the competent court shall be requested to issue a written warrant ordering the</p>
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<sup>5</sup> “Enforcing institutions” may mean either the investigating or the decision-making institution or both.

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

	search of an apartment or premises and the other persons as well as the seizure of items and documents in possession of the parties or other persons. □(3) The request from paragraph (1) of this Article must contain the legal basis, subject matter and purpose of the request, limitation period for implementation of the request and the penalties for refusal to act according to this request which are regulated by this Act.
<b>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this require authorisation by a court?</b>	Yes, see above (Article 35 of the Act on Competition).
<b>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)?</b>	The Law does not provide it explicitly but taking into consideration whole legal framework the post-search court warrant is needed.
<b>D. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.</b>	No, because Council of Competition did not have such investigation, yet.

## 8. Procedural rights of businesses / individuals

<b>A. Key rights of defence in cartel cases:</b>	<p>Rights to access to documents (Article 37 of the Act on Competition)</p> <ol style="list-style-type: none"> <li>(1) Parties to the proceedings carrying out before the Council of Competition have the right of access to case files.</li> <li>(2) At a party's request, the Council of Competition shall make a copy of record or single documents delivered by the other parties.</li> <li>(3) Request for access to the documents stated in paragraph (1) of this Article shall be submitted in written form to the Council of Competition. The Council of Competition shall set the date for the inspection of documents within eight (8) days period from the day when the request was received.</li> </ol> <p>Without prejudice to paragraph (1) or (2) of this Article, the</p>
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	documents or draft of the decisions of the Council of Competition, official statement and protocols from the sessions of the Council of Competition, internal instructions and notes on the case, as well as the other documents considered an official secret pursuant to Article 38 of this Act may neither be inspected nor photocopied.
<p><b>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? [Please indicate the relevant legal provisions.]</b></p>	<p>Business secrets: Article 38.</p> <p>(1) The members of the Council of Competition, the official persons and the other staff are obliged to keep business secret, irrespective of the way they come to know it, and the obligation of the business secret shall also continue to be in effect after expiry of their engagement with the Council of Competition.</p> <p>(2) Pursuant to paragraph (1) of this Article, business secret is particularly considered to be:</p> <p>a) all which is defined to be a business secret by the Act or other regulations;</p> <p>b) all which is defined, on the basis of the law and other documents to be a business secret or business secret of parties in the procedure or other persons;</p> <p>c) all which is particularly defined by the parties in the procedure or other persons as business secret;</p> <p>(3) Without prejudice to paragraph (1) and (2) of this Article, data and documents which have been made accessible to the general public in any way, or published pursuant to specific regulations, shall not be considered a business secret.</p>

## 9. Limitation periods and deadlines

<p><b>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?</b></p>	<p>Article 55 of the Act on Competition</p> <p>Limitation Periods for the Imposition of Penalties</p> <p>(1) The limitation period for the imposition of fines pursuant to Article 48. of this Act shall begin to run after the expiry of a 5 (five) year period, while the limitation period for the imposition of fines pursuant to Articles 49 and 50 of this Act shall begin to run after the expiry of a 3 (three) year period.</p> <p>(2) The limitation period shall also begin to run on the day on which the infringement is committed. In the case of continuing or repeated infringements of the Act, limitation time shall begin to run on the day on which the infringement ceases.</p> <p>(3) Any action taken by the Council of Competition for the purpose of carrying out investigation or proceedings in respect of an infringement shall interrupt the limitation period for the imposition of fines or periodic penalty payments. The limitation period shall be interrupted with effect from the date when at least one undertaking or association of undertakings –parties to the infringement is notified on the action. Actions which interrupt the running of the limitation period shall include in particular the following:</p>
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	<p>a) written requests for information from the Council of Competition;</p> <p>b) written authorizations to conduct proceedings issued to its official by the Council of Competition;</p> <p>c) the initiation of proceedings by the Council of Competition;</p> <p>d) notification on resolution of the Council of Competition authorizing the initiation of the proceedings.</p> <p>(4) The interruption of the limitation period shall relate to all the undertakings which have participated in the infringement.</p> <p>(5) The limitation period concerned shall be restarted after any interruption. The limitation period shall expire at the latest on the day when the determined time double time expired without a fine or a periodic penalty payment imposed by the Council of Competition.</p>
<p><b>B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision in the merits?</b></p>	<p>Article 41 of the Act on Competition</p> <p>Time Limits Period</p> <p>(1) The Council of Competition is obliged to issue a final decision within the time limit of a 6 (six) months following the day when the resolution authorizing the institution of the proceedings is adopted.</p> <p>(2) The Council of Competition may extend the time limit for making the final decision referred to in the paragraph (1) of this Article and Articles 5 and 11, for a subsequent period of three (3) months in cases where it is necessary to carry out additional expertise or analyses defining the state of facts and examination of evidences, or where delicate economic branches or markets are concerned, about which the Council of Competition is obliged to inform in written form the parties to the proceedings.</p>
<p><b>C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an investigation or a decision regarding sanctions?</b></p>	<p>Judicial protection (Article 46 of the Act on Competition)</p> <p>(1) The decision of the Council of Competition is final.</p> <p>The injured party to the proceedings may file an administrative dispute before the Court of Bosnia and Herzegovina, within 30 (thirty) days from the date of receipt or the publication of such decision.</p>

## 10. Types of decisions

<p><b>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.</b></p>	<p>The Council of Competition determines particular measure to be taken in order to restore efficient competition in cases of prohibited agreements. (Article 42, paragraph (1), item f) of the Act on Competition).</p> <p>Also, the final decision of the Council of Competition includes recommendations and/or sanctions and other measures to the parties in proceedings, and the undertakings or natural person can be fined at most 10% of value of its total annual income earned in the financial year preceding the year when the</p>
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	infringement is committed. (Article 43, paragraph (3) and Article 48, paragraph (1), item a) of the Act on Competition)
<b>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 listed under 10/A).</b>	
<b>C. Can interim measures<sup>7</sup> be ordered during the proceedings in cartel cases? (if different measures for hardcore cartels please describe both<sup>8</sup>.) Which institution (the investigatory / the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?</b>	<p>Article 40 of the Act on Competition</p> <p>Interim Measures</p> <p>(1) The Council of Competition may decide on interim measures on the basis of the preliminary determined infringements where it deems that particular activities of restriction, prevention or distortion of competition, with the meaning of this Act, represent a risk by creating a direct restraining influence on individual undertakings, or on particular sectors of the economy or consumers' interests.</p> <p>(2) In its decision on interim measures referred to in paragraph (1) of this Article, the Council of Competition shall suspend all activities, insist on meeting of particular conditions or impose other measure reasonably necessary to eliminate prevention, restriction or distortion of market competition. As a rule, the duration of the interim measures may not exceed the period of 3 (three) months, but may be prolonged if this proves to be necessary and reasonable.</p>

## 11. Sanctions for procedural breaches (non-compliance with procedural obligations)<sup>9</sup>

<b>A. Grounds for the imposition of procedural sanctions / fines:</b>	<p>Article 49 of the Act on Competition</p> <p>(1) An undertaking shall be fined at most 1 (one) % of the value of its total annual income earned in the preceding business year , if it:</p> <p style="padding-left: 40px;">a) acts contrary to the request, in sense of Articles 33 and 35 of this Act, by delivering incorrect and misleading information or not providing the necessary information within the</p>
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<sup>7</sup> 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].

<sup>8</sup> Only for agencies which answered “yes” to question 2.C. above

<sup>9</sup> 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.

	<p>set time limit ;</p> <p>b) fails to notify on the proposed concentration pursuant to Article 16 of this Act;</p> <p>c) submits incorrect and misleading information in the process of concentration appraisal, pursuant to Articles 16, 17 and 18 of this Act;</p> <p>d) fails to comply with the decision or resolution of the Council of Competition pursuant to Article 42, paragraph (1), item g) of this Act or fails to act according to the written order of the competent court.</p> <p>Article 51 of the Act on Competition</p> <p>The Council of Competition may impose of fines on legal and/or natural persons that are not parties to the proceedings, in case they fail to act upon the request or order of the Council of Competition pursuant to Article 33 and 35 of this Act.</p>
<b>B. Type and nature of the sanction (civil, administrative, criminal, combined):</b>	Fines are administrative.
<b>C. On whom can procedural sanctions be imposed?</b>	Procedural sanctions can be imposed on parties concerned and other persons that are not parties to the proceedings (see 11A).
<b>D. Criteria for determining the sanction / fine:</b>	See 11A.
<b>E. Are there maximum and / or minimum sanctions / fines?</b>	Yes, see 11A.

## 12. Sanctions on the merits of the case

<p><b>A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined):</b></p> <p><b>On whom can sanctions be imposed? [E.g.: representatives of businesses, (imprisonment for individuals), businesses, in the case of associations of companies the associations or the individual companies?]</b></p>	<p>Article 48 of the Act on Competition</p> <p>Fines for Severe Infringements of the Act on Competition</p> <p>(1) The undertakings or natural person, shall be fined at most 10 (ten)% of value of its total annual income earned in the financial year preceding the year when the infringement is committed, if it:</p> <p>a) concludes a prohibited agreement or participate in any other way in an agreement that caused prevention, restriction or distortion of the competition in the sense of Article 4 of this Act;</p> <p>b) abuses a dominant position as regulated in the provisions laid down in Article 10 of this Act;</p> <p>c) participates in the prohibited concentration of undertakings, pursuant to the provisions of Article 13 of this</p>
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	<p>Act;</p> <p>d) fails to comply with the decisions made by the Council of Competition pursuant to Article 42 of this Act.</p> <p>(2) The responsible persons of the undertakings shall be fined pursuant to paragraph (1) of this Article, an amount ranging from 15.000 KM to 50.000 KM</p> <p>The final decision of the Council of Competition shall be issued without prejudice to potential criminal and/or civil responsibility as to which a decision is taken by the competent courts. (Article 43, paragraph (6) of the Act on Competition)</p>
<b>B. Criteria for determining the sanction / fine:</b>	<p>Article 52 of the Act on Competition</p> <p>Fixing the Amount of the Fine</p> <p>In fixing the amount of the fine, the Council of Competition shall take into consideration both the gravity and the duration of the infringement of this Act.</p>
<b>C. Are there maximum and / or minimum sanctions / fines?</b>	<p>Yes.</p>
<b>D. Guideline(s) on calculation of fines:</b>	<p>Material is available in English at our website: <a href="http://www.bihkonk.gov.ba">www.bihkonk.gov.ba</a></p> <ol style="list-style-type: none"> <li>1.Regulation on the Procedure for Granting Immunity from Fines (Leniency Policy)</li> <li>2.Regulation on Definition of the Periodic Fine Payment</li> <li>3.Regulation on Amount of Administration Taxes Relating to the Practices Before the Council of Competition.</li> </ol>
<b>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?</b>	<p>The decisions of the Council of Competition is final. Defendant has to pay the fine within the time period determined in the decision, and then the injured party to the proceedings may also file an administrative dispute before the Court of Bosnia and Herzegovina, within 30 (thirty) days from the date of receipt or the publication of such decision.</p>

## 13. Possibilities of appeal

<b>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</b>	<p>Article 46 of the Act on Competition</p> <p>Judicial Protection</p> <p>(1) The decision of the Council of Competition is final.</p> <p>(2) The injured party to the proceedings may file an administrative dispute before the Court of Bosnia and Herzegovina, within 30 (thirty) days from the date of receipt or the publication of such decision.</p>
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<b>requirements?</b>	
<b>B. Before which court or agency should such a challenge be made? [if the answer to question 13/A is affirmative]</b>	Before Court of Bosnia & Herzegovina