



International
Competition
Network

ANTI-CARTEL ENFORCEMENT TEMPLATE

CARTELS WORKING GROUP
Subgroup 2: Enforcement Techniques

CROATIA

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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:	Croatian Competition Act (Article 9), available in both Croatian and English languages at Agency's website www.aztn.hr .
B. Implementing regulation(s) (if any):	Regulation on block exemption granted to certain categories of vertical agreements; Regulation on agreements of minor importance; Regulation on block exemption granted to agreements on distribution and servicing of motor vehicles; Regulation on block exemption granted to certain categories of horizontal agreements. Regulation on Block Exemption Granted to Certain Categories of Technology Transfer Agreements Regulation on block exemption granted to insurance agreements.
C. Interpretative guideline(s) (if any):	No interpretative guidelines in the area of cartels have been developed yet; however, CCA applies subsidiarily all relevant EC acquis.
D. Other relevant materials (if any):	CCA decisions in the following cases (available at www.aztn.hr):

	<p>1. Competition Agency vs. bus operators (prohibited agreement), decision September 2007 (not yet available in English)</p> <p>2. Croatian Mine Action Centre, Sisak, against Employers' Association - Humanitarian Mine Clearing Association (prohibited agreement), decision October 2005 (available in English)</p> <p>3. Agreements between press distributors Tisak d.d. Zagreb and Distri Press d.o.o. Zagreb (prohibited agreements), decision December 2005 (available in English).</p>
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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>Article 9 of the Competition Act uses the term "prohibited agreements" and it states the following:</p> <p>"(1) There shall be prohibited all agreements between undertakings, contracts, single provisions of agreements, explicit or tacit agreements, concerted practices, decisions by associations of undertakings (hereinafter: agreements) the object or effect of which is to prevent, restrict or distort competition in the relevant market, and in particular those which:</p> <ol style="list-style-type: none"> 1. directly or indirectly fix purchase or selling prices or any other trading conditions; 2. limit or control production, markets, technical development or investment; 3. share markets or sources of supply; 4. apply dissimilar conditions to equivalent transactions with other undertakings, thereby placing them at a competitive disadvantage; 5. 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. <p>(2) The agreements that prevent, restrict or distort competition pursuant to paragraph (1) of this Article, and which may not be exempted in the sense of Article 10 of this Act shall be null and void."</p> <p>Implementing regulations use term "restrictions".</p> <p>Regulation on block exemption granted to certain categories of vertical agreements: "Hard Core Restrictions" (Articles 9 and 10);</p> <p>Regulation on agreements of minor importance: "Hard Core Restrictions" (Articles 6-9), "Restrictions Relating to Parallel Network of Agreements of Minor Importance" (Article 10);</p> <p>Regulation on block exemption granted to agreements on distribution and servicing of motor vehicles: "Hard Core Restrictions" (Articles 10-13);</p>
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	Regulation on block exemption granted to certain categories of horizontal agreements: "Hard Core Restrictions" (Articles 11 and 12).
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"?	No. However, there are provisions titled Hard core Restrictions in regulations cited above under B 1. In the case of bus operators, 14 bus operators directly fixed prices of bus tickets on two inter-city bus lines. In the case of Mine Centre price fixing was determined and in the case of press distributors market sharing and fixing of trading conditions.
C. Scope of the prohibition of hardcore cartels:	There are no exceptions to the ban on hardcore cartels.
D. Is participation in a hardcore cartel illegal <i>per se</i>?	Participation in a hardcore cartel has to be proven through investigation process.
E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?	Participation in a hardcore cartel is a civil and administrative offence, not a criminal one.

3. Investigating institution(s)

A. Name of the agency, which investigates cartels:	Croatian Competition Agency
B. Contact details of the agency:	Croatian Competition Agency Savska 41, Zagreb, Croatia tel: 385 1 6176 448 fax: 385 1 6176 450 e-mail: agencija.ztn@aztn.hr web: www.aztn.hr (Croatian and English)
C. Information point for potential complainants:	as above
D. Contact point where complaints can be	Complaints are submitted in writing to the address above, Mo-Fri: 8,30-16,30, 22 nd floor

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.

lodged:	
E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.	<p>Any government body and other institutions such as regulatory bodies, chamber of commerce etc., may be requested to assist the investigation process by providing certain data needed for the analyses.</p> <p>Dawn raids have not been conducted yet, as part of investigation procedure.</p>

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

A. Name of the agency making decisions in cartel cases:	Competition Council of the Croatian Competition Agency
B. Contact details of the agency:	See 3B above
C. Contact point for questions and consultations:	See 3B above
D. Describe the role of the investigating agency in the process leading to the sanctioning of the cartel conduct.	<p>Expert staff of the Agency (teams consisting of lawyers and economists) investigate a case: collecting all relevant data, analysing them and preparing material for the Council to take a decision.</p> <p>Copetition Council, decision-making body of the Agency, takes a decision on the merits of the case based on the input prepared by the expert staff.</p> <p>Parties are notified on the decision of the Council (it is also published on the Agency's website) and the decision is published in the "Official Gazzette" of the Republic of Croatia.</p>
E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?	n/a, see 2E above

5. Handling complaints and initiation of proceedings

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

A. Basis for initiating investigations in cartel cases:	Investigations are normally initiated on the basis of a complaint or ex officio.
B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)?	Complaints have to be submitted in writing, personally, by fax or by post. All the important facts have to be stated, but there is no form prescribed.
C. Legal requirements for lodging a complaint against a cartel:	There is no limitation; every person may submit a complaint.
D. Is the investigating agency obliged to take action on each complaint that it receives or does it have discretion in this respect?	CCA applies subsidiarily General Administrative Proceeding Act (GAPA), according to which every complaint has to be handled according to the applicable procedural rules. Every claim is investigated and then either the decision to start a formal proceeding or a decision to dismiss the claim is adopted.
E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?	Yes, the Council has to adopt a decision explaining why the proceeding will not be initiated. Such a decision is addressed to the complainant.
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?	According to Croatian Competition Act and subsidiarily GAPA, complaints regarding agreements have to be solved within three months following the day of the resolution on institution of the proceedings, with a possibility of extending this period in particularly complex cases.

6. Leniency policy³

A. What is the official name of your leniency policy (if any)?	Croatian Competition Agency has not yet adopted leniency policy. However, there is a proposal to introduce leniency in the new Competition Act which is in the procedure of adoption.
B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction / fine), depending on the case?	
C. Who is eligible for full	

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.

leniency	
<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>	
<p>E. Who can be a beneficiary of the leniency program (individual / businesses)?</p>	
<p>F. What are the conditions of availability of full leniency:</p>	
<p>G. What are the conditions of availability of partial leniency (such as reduction of sanction / fine / imprisonment):</p>	
<p>H. Obligations for the beneficiary after the leniency application has been accepted:</p>	
<p>I. Are there formal requirements to make a leniency application?</p>	
<p>J. Are there distinct procedural steps within the leniency program?</p>	
<p>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?</p>	
<p>L. What is the legal basis for the power to agree to grant leniency? Is leniency granted on the</p>	

<p>basis of an agreement or is it laid down in a (formal) decision? Who within the agency decides about leniency applications?</p>	
<p>M. Does your legislation have a marker system? If yes, please describe it.</p>	
<p>N. Does the system provide for any extra credit⁴ for disclosing additional violations?</p>	
<p>O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.</p>	
<p>P. Is there a possibility of appealing an agency's decision rejecting a leniency application?</p>	
<p>Q. Contact point where a leniency application can be lodged:</p>	
<p>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?</p>	
<p>S. Does your policy allow for "affirmative leniency", that is the possibility of the agency approaching potential leniency applicants?</p>	

7. Investigative powers of the enforcing institution(s)⁵

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.

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

<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>Articles 48 and 49 of the Competition Act provide the following:</p> <p>"Collecting of Data</p> <p>Article 48</p> <p>(1) In carrying out enquiries the Agency shall by means of a written request:</p> <ol style="list-style-type: none"> 1. request from the undertakings, in writing or through oral statements, all the required data, and ask for submittal of the required data and documentation for the inquiry; 2. request from the undertaking concerned to ensure direct inspection of all business premises, all immovable and movable property, business books, data bases and other documentation; 3. request other necessary data and information from other persons, for which the Agency deems may contribute to solve and clarify certain issues on prevention, restriction or distortion of competition; 4. ask from the undertakings to pursue other activities which it deems necessary for the purpose of stating all the facts relevant to the procedure. <p>(2) The request referred to in paragraph (1) of this Article shall be based on legal grounds, contain the subject and the purpose of the request, the time limit for its implementation, as well as penalty clause if the request regulated by this Act should be disobeyed.</p> <p>(3) Undertakings and other persons are obliged to act in accordance with the request of the Agency pursuant to paragraph (1) of this Article.</p> <p>Right to Search Apartment, Business Premises and Seizure of Property</p> <p>Article 49</p> <p>(1) If there is a reasonable doubt that any of the parties to the proceedings or a third person, holds in possession documents or other instruments relevant to the establishing of the material truth in the proceedings, the Agency shall request the magistrate court in Zagreb to issue a written warrant ordering the search of particular persons, apartments, or business premises, and the seizure of objects and documents in possession of the undertakings concerned or a third person.</p> <p>(2) The Agency shall request the competent magistrate court in Zagreb to issue a written warrant referred to in paragraph (1) of this Article also in cases when a party to the proceedings or a third person fails to act in accordance with the request of the Agency referred to in Article 37 item 8 and 9, and Article 48 of this Act."</p>
<p>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this</p>	<p>Yes, see above</p>

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

<p>require authorisation by a court?</p>	
<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>No.</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>In the practice of the Agency, there have not yet been such investigative measures which would require authorization by the court.</p>

8. Procedural rights of businesses / individuals

<p>A. Key rights of defence in cartel cases:</p>	<p>In cartels, like in all other proceedings in the Agency, parties have rights guaranteed by the GAPA, such as: right of access to file, right to oral hearing, right to receive a statement of objections (e.g. in merger cases, where there are serious competition concerns and CCA defines certain measures as a condition for clearing the merger).</p> <p>Concretely, Competition Act states the following:</p> <p>"Right to Access to File</p> <p>Article 50</p> <p>(1) Parties to the proceedings carried out before the Agency have the right of access to case files and are allowed by the Agency to make a photocopy of the file or of single documents at their own expense.</p> <p>(2) The request to access to the file referred to in paragraph (1) of this Article shall be submitted to the Agency in writing.</p> <p>(3) The Agency shall set the date and time for inspection of the file within eight days following the receipt of the request referred to in paragraph (2) of this Article.</p> <p>(4) Without prejudice to the provisions laid down in paragraph (1) and (2) of this Article, drafts of the decisions of the Agency, official statements and protocols from the sessions of the Council, internal instructions and notes on the case, correspondence and information exchanged with the European Commission or other authorities of the European Communities, as well as other documents considered official secret in the sense of Article 51 of this Act, may neither be inspected nor photocopied.</p>
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	<p>Oral Hearing</p> <p>Article 54</p> <p>(1) It is obligatory to hold the oral hearing in all cases with parties of contrary interests. The oral hearing is as a rule public.</p> <p>(2) The Agency is entitled to conduct the oral hearing in any case when it deems useful.</p> <p>(3) Without prejudice to paragraph (1) of this Article, if the Agency after it has received the written statement of the party against which it has started the proceedings, decides that the facts of the case between the parties is beyond dispute and that there are no other hindrances preventing the decision to be made, and if it is in the public interest, the Agency may render a decision without calling for the oral hearing.</p> <p>(4) If any of the summoned parties, or their attorneys, fail to appear at the first hearing in the proceedings, the Agency shall as a rule postpone the oral hearing and call for a new one.</p> <p>(5) If any of the summoned parties to the proceedings fail to appear at the following hearing, convened in accordance with the provision laid down in paragraph (4) of this Article, as a rule, the Agency shall not convene another oral hearing, but shall make its decision on the basis of its own findings, data and information."</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>Regarding the secrecy obligation Competition Act, Article 51 states the following:</p> <p>"(1) The president and the members of the Council as well as the employees of the Agency shall keep and not disclose the information classified as official secret, irrespective of the way they came to know it, and the obligation of official secrecy shall also continue to be in effect after the expiry of their engagement with the Agency.</p> <p>(2) Under the term official secret referred to in paragraph (1) of this Article, shall be considered, in particular the following:</p> <ol style="list-style-type: none"> 1. all which is defined to be official secret by law or other regulations; 2. all which is defined to be official or business secret on the basis of bylaw regulations or other regulations of the undertakings, or persons referred to in Articles 4 and 5 of this Act; 3. all that undertakings, or persons referred to in Articles 4, and 5 of this Act have defined as business or official secret; 4. all correspondence with the European Commission and other authorities of the European Communities. <p>(3) Without prejudice to the provisions of paragraph (1) and (2) of this Article, data and documents which have been made accessible to the general public in any way, or decisions of managing or administrative bodies of the undertakings published to be available to the general public pursuant to particular regulations, shall not be considered official secret."</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>Regarding the limitation periods Competition Act, Article 64 states the following:</p> <p>"Article 64</p> <p>(1) The minor offence proceedings instituted upon the violation of the provisions of this Act may not be started after three years from the day when the infringement was committed.</p> <p>(2) The limitation period referred to in paragraph (1) is interrupted by any action of the competent body undertaken for the purpose of persecuting the offender. After any interruption, limitation period shall be restarted; however, the minor offence proceedings may in no case be conducted after the expiry of the double time limit laid down in paragraph (1) of this Article.</p> <p>(3) The imposed penalties may not be enforced if three years have passed from the date when the decision on the violation became legally valid.</p> <p>(4) The limitation period for the enforcement of the penalty shall be interrupted by any action of the competent body that is undertaken for the purpose of the enforcement. After any interruption the limitation period concerned shall be restarted; however, the penalty may not be enforced after the expiry of the double time laid down in paragraph (3) of this Article."</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>Three months following the initiation of the procedure, but this deadline may be prolonged in particularly complex cases.</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>Party may challenge Agency's decision within thirty days following the receipt of the decision (please note that Agency's decision does not contain sanction, but it is on minor offence courts to determine sanctions).</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>CCA (Council as a decision making body) brings a decision where it is determined whether an infringement has been found.</p> <p>Also, interim measure may be adopted, if it is deemed that particular activities of restriction, prevention or distortion of competition, within the meaning of this Act, represent a risk by creating a direct restraining influence on undertakings, or on particular sectors of economy or consumers' interests.</p> <p>In its decision on interim measures the Agency shall suspend</p>
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	all actions, insist on meeting of particular conditions or impose other measures reasonably necessary to eliminate prevention, restriction or distortion of competition, as well as the duration of the relevant measure, which as a rule, may not exceed the period of three months. (Article 55 of the Competition Act).
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).	See above
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?	Competition Agency may adopt interim measures, please see 10A.

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

A. Grounds for the imposition of procedural sanctions / fines:	<p>Relevant provision of Competition Act:</p> <p>"Fines for Other Violations of the Provisions of this Act</p> <p>Article 62</p> <p>(1) The undertaking - legal or natural person shall be fined at the most with 1% of the value of its total annual turnover in the financial year preceding the year when the infringement was committed, if it:</p> <p>1. submits to the Agency incorrect or untrue information which may influence the rendering of the decision on individual</p>
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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.

	<p>exemption of the agreement (Article 14 paragraph (1));</p> <p>2. fails to notify the Agency on the proposed concentration (Article 22);</p> <p>3. submits to the Agency incorrect or untrue information in the concentration assessment proceedings (Article 25, Article 26 paragraph (1) item 1);</p> <p>4. fails to act according to the request of the Agency (Article 47 paragraph (3), Article 48 paragraph (1) and (3));</p> <p>5. fails to act according to the decision of the Agency (Article 57, item 8);</p> <p>6. fails to act according to the written order of the magistrate court (Article 49).</p> <p>(2) For the infringement referred to in paragraph (1) of this Article the responsible person of the undertaking - legal person concerned shall be also fined an amount ranging from 15,000.00 to 50,000.00 Kuna.</p> <p>Fines for Persons that are not Parties to the Proceedings</p> <p>Article 63</p> <p>(1) The undertaking - legal person that is not a party to the proceedings before the Agency shall be fined for the infringement committed an amount ranging from 15,000.00 to 50,000.00 Kuna if it fails to act upon the request of the Agency (Article 37 items 8 and 9, Article 48 paragraph (1) items 3 and 4 and paragraph (3)).</p> <p>(2) For the infringement referred to in paragraph (1) of this Article the responsible persons of the legal person in question shall be also fined an amount ranging from 5,000.00 to 10,000.00 Kuna.</p> <p>(3) The undertaking - natural person that is not a party to the proceedings before the Agency and that fails to act according to the request of the Agency shall be fined for the infringement committed an amount ranging from 5,000.00 to 10,000.00 Kuna (Article 37 items 8 and 9 and Article 48 paragraph (1) items 3 and 4 and paragraph (3)).</p>
<p>B. Type and nature of the sanction (civil, administrative, criminal, combined):</p>	<p>Fines are administrative and they are determined by the decision of magistrate court.</p> <p>Pursuant to the decision of the Agency upon violation of the provisions of the Competition Act, the Agency makes a claim to the minor offence court to start the minor offence proceedings against the undertaking concerned and the responsible person of the respective undertaking. (Article 60 of the Competition Act)</p>
<p>C. On whom can procedural sanctions be imposed?</p>	<p>On parties concerned and other persons (see the provisions under 11A).</p>
<p>D. Criteria for determining the sanction / fine:</p>	<p>See above, 11A.</p>
<p>E. Are there maximum and / or minimum sanctions / fines?</p>	<p>Yes, see above, 11A.</p>

12. Sanctions on the merits of the case

<p>A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined):</p> <p>On whom can sanctions be imposed?</p>	<p>Sanctions (fines) are administrative. They can be imposed to an undertaking and responsible person of the undertaking.</p> <p>Relevant provision of Competition Act:</p> <p>"Severe Violations of the Provisions of this Act</p> <p>Article 61</p> <p>(1) The undertaking - legal or natural person, shall be fined at the most 10% of the value of its total annual turnover in the financial year preceding the year when the infringement was committed, if it:</p> <ol style="list-style-type: none"> 1. concludes a prohibited agreement or participates in any other way in the agreement that caused prevention, restriction or distortion of competition in the sense of Article 9 hereof; 2. abuses a dominant position as defined in the provision laid down in Article 16 of this Act; 3. participates in prohibited concentration of undertakings referred to in the provision laid down in Article 18 of this Act, or 4. fails to act in accordance with the decision made by the Agency (Article 57 items 1 to 7). <p>(2) For the infringement referred to in paragraph (1) of this Article also the responsible person of the undertaking – legal person concerned shall be fined an amount ranging from 50,000.00 to 200,000.00 Kuna.</p>
<p>B. Criteria for determining the sanction / fine:</p>	<p>see above</p>
<p>C. Are there maximum and / or minimum sanctions / fines?</p>	<p>Yes, see above</p>
<p>D. Guideline(s) on calculation of fines:</p>	<p>There are no guidelines, it is upon magistrate courts to determine the calculation of fines.</p> <p>Based on provisions of the Competition Act (see above), the Agency has no jurisdiction to impose fines. Upon the decision of the Agency that provisions of the Competition Act have been violated, the Agency makes a claim to the minor offence court to start the proceedings against the undertaking concerned and the responsible person of the respective undertaking. Fines are pronounced by the minor offence courts based on the provisions of the Competition Act. However, within the Draft of the new Competition Act, there is a proposal that the Agency is given the competence to impose fines directly. If this will be the case, notices and internal guidelines will be also adopted.</p>
<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</p>	<p>In theory not, however minor offence courts tend to postpone the decision on fines given that they declare the ruling of the Administrative Court of the Republic of Croatia on the legality of the decision of the Agency a preliminary issue, thereby deciding on the merits of the decision of the Agency. However, there is a proposal to have only one court competent for</p>

apply for suspension, what are the criteria?	deciding on the merits of the decisions of the Agency and on the level of the fine imposed by the Agency (once it has this competence). The proposal is that this court should be commercial court.
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13. Possibilities of appeal

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?	Yes, parties may appeal against Agency's decision, within thirty days upon receipt of the respective decision.
B. Before which court or agency should such a challenge be made? [if the answer to question 13/A is affirmative]	<p>The Administrative Court of the Republic of Croatia decides on the legality of the decisions of the Agency, within the meaning of Article 58 of the Competition Act:</p> <p>"Against the decisions of the Agency referred to in Article 57 of this Act no appeal is allowed, but the injured party may file an administrative dispute before the Administrative Court of the Republic of Croatia". Remark: there is a proposal to have only one court competent for deciding on the merits of the decisions of the Agency and on the level of the fine imposed by the Agency (once it has this competence). The proposal is that this court should be commercial court.</p>