



**RESOLUTION OF THE COMPETITION COUNCIL OF THE REPUBLIC OF
LITHUANIA**

**ON APPROVAL OF THE RULES FOR COOPERATION WITH THE COMPETITION OR
OTHER COMPETENT AUTHORITIES OF OTHER MEMBER STATES OF THE
EUROPEAN UNION**

30 July 2020 No. 1S-80 (2020)

Vilnius

Referring to paragraph 2 of Article 29 of the Law on Amending Law No. VIII-1099 of the Republic of Lithuania on Competition by Amending its Articles 1, 3, 11, 16, 17, 18, 19, 21, 22, 25, 26, 27, 29, 32, 33, 35, 36, 37, 38, 38¹, 40, 45, 53, 55, 57 and its Annex and Supplementing it with Article 39¹, Chapter VIII, also referring to paragraph 11 of Article 58 of the Law of the Republic of Lithuania on Competition and implementing Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (hereinafter referred to as Directive (EU) 2019/1), the Competition Council of the Republic of Lithuania resolves:

1. To approve the Rules for Cooperation with the Competition or Other Competent Authorities of Other Member States of the European Union (enclosed).

2. To establish that this Resolution shall enter into force on 1 November 2020.

Chairman

Šarūnas Keserauskas

RULES FOR COOPERATION WITH THE COMPETITION OR OTHER COMPETENT AUTHORITIES OF OTHER MEMBER STATES OF THE EUROPEAN UNION

I. GENERAL PROVISIONS

1. The Rules for Cooperation with the Competition or Other Competent Authorities of Other Member States of the European Union (hereinafter referred to as the Rules) set out requirements for the requests made by the Competition Council to competition and other competent authorities of other Member States of the European Union (hereinafter referred to as the competent authorities of other EU Member States) or received, respectively, from competent authorities of other EU Member States, the procedure for implementation of these requests, compensation of cooperation-related costs incurred by the Competition Council and competent authorities of other EU Member States, including costs incurred in carrying out the actions referred to in paragraphs 9, 10 and 11 of Article 25 of the Law on Competition.

II. REQUESTS MADE BY THE COMPETITION COUNCIL

2. The Competition Council can approach a competent authority of another EU Member State in accordance with paragraph 8 of Article 58 of the Law on Competition, asking to inform, acting on behalf of the Competition Council, relevant persons about conclusions of an investigation, resolutions of the Competition Council, procedural decisions or any other documents relating to the application of Article 101 or Article 102 of the Treaty on the Functioning of the European Union, including those related to fine and interest enforcement (hereinafter referred to as the Request to Inform), or ask for enforcement of a fine imposed by the Competition Council and interest indicated in paragraph 2 of Article 39 of the Law on Competition (hereinafter referred to as the Request for Fine and Interest Enforcement).

3. The Competition Council shall make a Request to Inform in case a person to be informed about a document does not have a place of residence or domicile in the Republic of Lithuania or service of the document at the place of residence or domicile address in the Republic of Lithuania that the Competition Council is aware of fails and the Competition Council has knowledge that the person resides or has a domicile in another Member State of the European Union.

4. The Competition Council shall make a Request for Fine and Interest Enforcement if, in the course of the enforcement process in the Republic of Lithuania, it turns out that the undertaking, the fine imposed on which by the Competition Council and/or accrued interest are to be enforced, does not have sufficient assets in the Republic of Lithuania. The Competition Council can also submit a Request for Fine and Interest Enforcement in other cases when fine imposed by the Competition Council and/or accrued interest fail to be enforced in the Republic of Lithuania. The Competition Council shall submit a Request for Fine and Interest Enforcement to that competent authority of another EU Member State, in the territory of which the undertaking is registered or, to the best knowledge of the Competition Council, may have assets. The Competition Council can submit a Request for Fine and Interest Enforcement only after the effective date of the court judgment concerning the resolution of the Competition Council, by which the fine was imposed, or when the resolution of the Competition Council, by which the fine was imposed, was not appealed within the

time limit for its appeal. The Competition Council can submit a Request for Fine and Interest Enforcement no later than within three years after the effective date of the court judgment concerning the resolution of the Competition Council, by which the fine was imposed, or, when the resolution of the Competition Council, by which the fine was imposed, was not appealed within the time limit for its appeal, no later than within three years after the end of the time limit for appeal.

5. In the Request to Inform or the Request for Fine and Interest Enforcement, the Competition Council shall indicate:

5.1. name, known address or other information for identification of the addressee to be informed about a document or from which a fine and/or interest is sought to be enforced;

5.2. summary of facts and circumstances relating to the Request;

5.3. summaries of copies of the attached document to be informed of or resolutions (decisions) on imposition and/or enforcement of fines;

5.4. name, address and other contact details of the authority approached;

5.5. the time limit set by legal acts of the Republic of Lithuania, during which the addressee must be informed of the document, or the period of limitation, during which the imposed fine and/or interest should be enforced.

6. In the Request for Fine and Interest Enforcement, in addition to the information specified in paragraph 5 hereof, the Competition Council shall specify:

6.1. information on resolutions (decisions) on imposition and/or enforcement of fines and/or interest accrued that should be enforced in another EU Member State;

6.2. the date when the fine imposing resolution became final, i.e. not subject to ordinary judicial review (i.e. was not appealed within the time limit for its appeal or upon the effective date of the court judgment concerning the resolution by which the fine was imposed);

6.3. the amount of the fine imposed and/or interest accrued and the amount of fine and/or interest still due;

6.4. information and document copies, proving and demonstrating reasonable efforts to enforce a fine imposed by the Competition Council and/or interest in the enforcement case in the Republic of Lithuania.

7. Along with the Request, the Competition Council shall submit a copy of the document to be informed of or copies of the resolutions (decisions) on imposition of fines and/or interest to be enforced.

8. The Competition Council shall submit the Requests in the official language or one of the official languages of other EU Member States, or in another language agreed between the Competition Council and a competent authority of another EU Member State. If so required under law of another EU Member State, the Competition Council shall provide a translation of the document to be informed of or of the resolutions (decisions) on imposition of fines to be enforced and/or their enforcement into the official language or one of the official languages of that EU Member State, or into another language agreed between the Competition Council and a competent authority of another EU Member State.

III. REQUESTS RECEIVED BY THE COMPETITION COUNCIL

9. Competition authorities of other EU Member States may submit Requests to the Competition Council in accordance with paragraphs 1 and 2 of Article 58 of the Law on Competition.

10. In the Request to Inform or the Request for Fine and Interest Enforcement, competition authorities of other EU Member States shall indicate:

10.1. name, known address or other information for identification of the addressee to be informed about a document or from which a fine and interest is sought to be enforced;

- 10.2. summary of facts and circumstances relating to the Request;
- 10.3. summary of a copy of the attached document to be informed of or summary of a copy of the decision on imposition of a fine and interest to be enforced;
- 10.4. details of the authority (name, address and other contact details);
- 10.5. the time limit or the period of limitation set by their national legal acts, during which the addressee must be informed about the served document or during which the imposed fine and/or interest should be enforced.

11. In the Request for Fine and Interest Enforcement, in addition to the information specified in paragraph 10 hereof, the competition authorities of other EU Member States shall specify:

11.1. information on the decision imposing the fine and interest to be enforced in the Republic of Lithuania;

11.2. the date when the decision became final, after which the decision could not be subject to ordinary judicial review (i.e. was not appealed within the time limit for its appeal or upon the effective date of the court judgment concerning the relevant decision by which the fine was imposed);

11.3. the amount of the fine imposed and interest accrued;

11.4. information demonstrating reasonable efforts to enforce the imposed fine and accrued interest in their state.

12. Along with the Request, competition authorities of other EU Member States shall submit a copy of the document to be informed of or a copy of the decision on imposition of a fine and interest to be enforced.

13. Requests submitted by competition authorities of other EU Member States, indicated in paragraph 9 of the Rules, must be in the state Lithuanian language or in another language, on use of which the competition authority of another EU Member State agrees with the Competition Council. The Request must be submitted along with a certified translation of the document to be informed of or decision on imposition of a fine and interest to be enforced into the state Lithuanian language or another language, on use of which the competition authority of another EU Member State agrees with the Competition Council.

14. Having received a Request to Inform or Request for Fine and Interest Enforcement from the competition authority of another EU Member State, the Competition Council shall check whether it meets requirements of paragraphs 10–13 hereof. If the received Request does not meet these requirements, the Competition Council shall, no later than within 5 business days after receipt of the Request, inform the competition authority of another EU Member State that submitted the Request about it and shall suggest making corrections.

15. The Competition Council shall, no later than within 5 business days after the receipt of the Request to Inform that meets the requirements, send the documents by registered mail at the addresses indicated in the Request to Inform. The Competition Council shall transfer the information received about service of or failure to serve the documents no later than within 5 business days as of learning the relevant circumstances to the competition authority of another EU Member State that submitted the Request to Inform.

16. The Competition Council shall no later than within 5 business days after the receipt of the Request for Fine and Interest Enforcement that meets the requirements, shall transfer the execution of the decision received along with the Request for Fine and Interest Enforcement, by which the fine was imposed and interest is charged, which should be enforced, to bailiffs. The bailiffs shall perform enforced recovery of the fine imposed by the competition authority of another EU Member State and accrued interest into the account of the Competition Council. Having deducted the costs indicated in paragraph 27 hereof, the Competition Council shall transfer the amounts received from the bailiffs to the competition authority of another EU Member State that made the Request for Fine and Interest Enforcement.

17. If the competition authority of another EU Member State did not take actions in its territory for enforcement of the fine imposed by it and accrued interest and, for this reason, the Request for Fine and Interest Enforcement lacks information indicated in paragraph 11.4 hereof, the Competition Council shall have the right not to fulfil the received Request for Fine and Interest Enforcement.

18. If fulfilment of the Request to Inform would obviously be contrary to public order in the Republic of Lithuania or such information about the obvious contradiction of the fulfilment of the Request for Fine and Interest Enforcement to public order is received from the bailiff, the Competition Council shall contact the competition authority of another EU Member State that made the Request and shall inform it about it, indicating supporting reasons.

IV. OTHER CASES OF COOPERATION

19. The Competition Council can address the competition authority of another EU Member State in accordance with paragraph 11 of Article 25 of the Law on Competition, requesting to perform investigative actions provided for in Articles 6–9 of Directive (EU) 2019/1 in the territory of another EU Member, which would help the Competition Council to determine whether an undertaking breached rights of authorised officers of the Competition Council provided for in paragraph 1 of Article 25 of the Law on Competition, requirements set by the Competition Council in accordance with Article 26, paragraph 4 of Article 28, subparagraphs 1 and 2 of paragraph 1 of Article 35 of the Law on Competition.

20. When investigative actions on behalf of the Competition Council are performed by the competition authority of another EU Member State according to Article 22 of Regulation (EC) No. 1/2003, the Competition Council may approach the competition authority of another EU Member State and ask for a permission for authorised officers of the Competition Council to take part in the investigative actions and to actively assist in performance of the investigative actions indicated in Articles 6, 7 and 9 of Directive (EU) 2019/1. Staff of the Competition Council shall take part in performance of investigative actions according to this paragraph supervised by officers of the competition authority of another EU Member State.

21. Competition authorities of other EU Member States may submit Requests to the Competition Council in accordance with paragraphs 9 and 10 of Article 25 of the Law on Competition.

22. The Competition Council shall inform the European Commission and the competition authorities of the EU Member States about the decision to impose interim measures in accordance with provisions of Article 26 of the Law on Competition in cases of suspected infringement of Articles 101 or 102 of the Treaty on the Functioning of the European Union.

23. Where the imposition of a sanction on a natural person in another EU Member State for participation in a prohibited agreement in breach of Article 101 of the Treaty on the Functioning of the European Union and/or a national legal act, the aim of which substantially coincides with the aim of Article 101 of the Treaty on the Functioning of the European Union, relates to an infringement of the Law on Competition investigated or being investigated by the Competition Council, the Competition Council shall cooperate and communicate with the competent authority of another EU Member State which may impose sanctions on the natural person for that infringement, where the latter seeks to check whether, in accordance with its national legal acts to which Article 23 of Directive (EU) 2019/1 has been transposed, the sanction may be imposed on the natural person.

V. COMPENSATION FOR THE COOPERATION RELATED COSTS

24. At the request of the competent authority of another EU Member State, the Competition Council shall compensate for all reasonable additional costs incurred by the competent authority of another EU Member State, including translation costs, work costs and administrative costs related to actions that the competent authority of another EU Member State took on behalf of the Competition Council in accordance with provisions of paragraphs 19 and 20 of these Rules or in response to the Request to Inform received from the Competition Council.

25. The Competition Council shall have the right to demand that reasonable additional costs incurred by it, including translation costs, work costs and administrative costs, are compensated for by the competent authority of another EU Member State, on behalf of which the Competition Council acted in performance of the investigative actions indicated in paragraphs 9 and 10 of Article 25 of the Law on Competition or performed actions in response to the Request to Inform.

26. If the competent authority of another EU Member State fails to enforce the fines imposed by the Competition Council and/or accrued interest according to the Competition Council's Request for Fine and Interest Enforcement or if the enforced amount does not cover the costs incurred, the Competition Council shall, upon receipt of the request of the competent authority of another EU Member State, must compensate it for all costs incurred by it, including translation costs, work costs and administrative costs.

27. The Competition Council shall have the right to cover its costs, including translation costs, work costs and administrative costs, incurred in response to the received Request for Fine and Interest Enforcement with the amounts transferred by bailiffs in accordance with paragraph 16 of these Rules. If bailiffs fail to enforce a fine imposed by the competent authority of another EU Member State and accrued interest, the Competition Council shall have the right to approach the competent authority of another EU Member State with a request for compensation of the costs incurred by the Competition Council, including translation costs, work costs and administrative costs. Costs incurred by the Competition Council shall be recovered in euros in accordance with the procedure established by legal acts of the Republic of Lithuania or by converting amounts of fines and interest to the euro currency at the rate that was in effect on the date when fines were imposed or interest started to accrue.