

**Polska**



# Important regulations: Competition law

2017-05-09 13:28:52



Competition law is based on the Act of 16th February 2007 on competition and consumer protection.

The most important actions forbidden through this law are:

- **conclusion of illegal competition-restricting agreements** (Art. 6) by:
  - directly or indirectly fixing prices,
  - limiting or controlling production or sales, sharing sales or purchase markets,
  - applying burdensome or dissimilar terms and conditions in equivalent contracts with other trading parties, thereby differentiating the conditions competition for these parties,
  - making the conclusion of contracts conditional upon the acceptance or rendering by the other parties of supplementary performance, which has nothing to do with the subject of the contract and has no customary relation thereto,
  - restricting access to, or eliminating from the market enterprises not covered by the agreement,
  - agreeing terms and conditions of bids by enterprises entering the tender or by those enterprises and the party organising the tender, in particular with respect to the scope of the works or the price.
- **abusing a dominant market position** (Art. 9), in particular by:
  - directly or indirectly imposing unfair (excessively high or unjustifiably low) prices,
  - limiting production, sales or technical development,
  - counteracting the formation of conditions necessary for the creation or development of competition,
  - imposing burdensome terms and conditions of contracts, resulting in unjustified profits for the enterprise.



**Competition law is enforced by the central administrative body** - the President of the Office of Competition and Consumer Protection (Prezes Urzedu Ochrony Konkurencji i Kosumentów). The decisions and guidelines of the President, as well as court decisions issued pursuant to appeal against the decisions of the Journal of the Office.

**Administrative decisions of the President of the Office related to** competition law may be appealed to a special court established within the structures of the Regional Court of Warsaw (the Competition and Consumer

Protection Court). Appeal applications must be filed within two weeks of the date of receipt of the relevant decision.

**The Competition and Consumer Protection Court** decisions may be further appealed to the Supreme Court, whatever the amount involved, but only for questions of law (in Polish, "kasacja"). The appeal must be filed within 30 days following the date of receipt of the ruling of the Court.

**A system of fines** is imposed by the President of the Office for failure to comply with competition law.



**The penalties are discretionary and may range from:**

- up to 10% of the total annual revenues of an entity in case this entity enters into agreements which aim to prevent, restrict or distort competition; abuses its dominant position; or proceeds with a merger before obtaining a clearance decision from the President of the Office,
- the PLN equivalent of up to 50 million EUR, if no information or incorrect information was provided during the merger or anti-monopoly inspection proceedings,
- the PLN equivalent of up to 10,000 EUR for each day of delay in compliance with a decision of the President, are published in the Official Journal of the President of the Office or the ruling of the Competition and Consumer Protection Court.

**Fines imposed by the President of the Office** may be appealed to the Competition and Consumer Protection Court. Such fines constitute the revenues of the State budget and may be collected pursuant to executory administrative proceedings (these proceedings consist of a forced seizure of assets, and measures related to bank accounts and other properties of the debtor).

**Polish competition protection legislation** is efficient and its enforcement mechanisms function in a satisfactory manner. EU regulations, which apply directly in Poland as of 1st May 2004, should further strengthen the effectiveness of the Polish competition protection authorities. This is due to the fact that the President of the

Office will closely cooperate with the Commission regarding the enforcement of competition law within Poland and the EU as a whole.

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Source: Polish Investment and Trade Agency, *Poland your business Partner. Invest in Poland, 2016.*



**INNOWACYJNA GOSPODARKA**  
NARODOWA STRATEGIA SPÓJNOŚCI



**MINISTERSTWO  
ROZWOJU**

**UNIA EUROPEJSKA**  
EUROPEJSKI FUNDUSZ  
ROZWOJU REGIONALNEGO



Projekt jest współfinansowany przez Unię Europejską ze środków Europejskiego Funduszu Rozwoju Regionalnego