

The Portuguese Leniency Program Main Features

Which are the relevant Diplomas?

- » **Law No. 39/2006 of 25 August**, concerning the exemption from or a special reduction of fines
- » **Regulation No. 214/2003 of 22 November**, that lays out the procedure for granting the exemption from or a special reduction of fines

What are the goals of the leniency program?

To create highly favourable conditions for the firms involved in prohibit agreements under the Competition Act to collaborate in the investigation with the Portuguese Competition Authority. The rules created by Law No. 39/2006 of 25 August provide the Competition Authority with a new instrument that is extremely important for its activity of investigating and punishing anti-competitive agreements and concerted practices.

What is the lenient treatment?

Firms involved in prohibit agreements under the Competition Act are punishable with a fine amounting to up to 10% of the preceding year's turnover of the firms involved. In accordance with the provisions of Law No. 39/2006 of 25 August, cooperation with the Competition Authority may lead, depending on the cases, to:

- Exemption from the fine;
- A special reduction equal to or greater than 50% of the fine;
- A special reduction of up to 50% of the fine;
- An additional reduction in the fine.

Who may benefit from the rules for exemption from or a special reduction in the fine?

- Firms that submit a leniency application & its members of their boards of directors,
- Members of the boards of directors that have submitted an individual application for leniency.

What are the conditions for exemption from or a special reduction in the fine?

Time is of the essence on the decision to submit the leniency application.

- **Exemption from the fine** can only be granted to the first undertaking that presents a leniency application relating to a prohibit agreement before the PCA has initiated investigation;
- **A special reduction equal to or greater than 50% of the fine** can only be granted to the first undertaking to submit an application relating to a prohibit agreement after the PCA has initiated investigation;
- **A special reduction of up to 50% of the fine** is granted to the second firm to submit an application relating to a prohibit agreement after the PCA has initiated investigation.
- **An additional reduction in the fine** is granted to the undertaking that has submitted a leniency application in relation to prohibit agreement it is the first to supply information and evidence that allow the existence of another agreement or concerted practice to be confirmed or that contribute decisively to this. In such a case, it must have been the first undertaking to submit an application for exemption from or a special reduction in the fine in relation to this other agreement or concerted practice.

When is adopted the final ruling on the leniency application?

The final decision on exemption from or a special or additional reduction in the fine is taken by the Competition Authority at the time of the final ruling.

When can be obtained further information?

Guidelines on the Portuguese Leniency Program are available at:

www.autoridadedaconcorrenca.pt