

## Chiritoiu: Non-resident companies in Romania will be fined depending on turnover at global level

**Non-resident companies in Romania will be fined depending on the turnover at a global level, once the Competition Law is amended, said, for AGERPRES, Bogdan Chiritoiu, the head of the Competition Council.**

The Government approved last week Emergency Ordinance 170/2020 regarding the amendment of the Competition Law, which provides, among other things: "Contraventions under this definition will be punished with a fine that cannot exceed 10 pct of the total global turnover achieved by the enterprise or association of enterprises in the financial year previous to the fining for the following actions, committed with intent or by negligence by enterprises or associations of enterprises (...)".

"For companies not registered in Romania, we will issue fines starting from the global turnover. For companies registered in Romania, the fines will be issued on the basis of the turnover in Romania. Fines should be so high that they discourage companies to break the law," said Chiritoiu.

According to him, the provision comes from the obligation to take over, until March, a new European competition directive, named the ECN+ Directive, which has the purpose of strengthening the power of competition watchdogs in member states.

Another amendment to the Competition Law, by OUG 170/2020, provides the obligation of companies to supply, at the demand of the Competition Council, information regarding the selling price of products.

"Companies send at the request of the Competition Council the selling price of products commercialized by them, in view of conducting analyses, market studies or price comparisons included in the online platforms dedicated to informing consumers. For this purpose, the selection of economic sectors included in the online platforms is done by the Competition Council, with the consultation of the regulating authority in that respective sector," according to the ordinance.

Another provision of OUG 170 refers to the actions regarding damages in cases of infringement of legal dispositions in the realm of competition, respectively the way in which damages can be claimed in court in the case of cartels or abuse of dominant position.

"Until now, as well, those who considered themselves victims of such anti-competition activities could address the court in order to obtain damages. The novelty is that from now on they can use the decision of the Competition Council, they don't have to prove the infringement of the law. Furthermore, they can use the evidence gathered by the Competition Council, and we are obligated to make available this evidence," Chiritoiu added.

The new legislation also includes a recommendation of the European Commission, based on a study of the community executive, according to which the formation of a cartel incurs damages in the form of product or services' prices going up by 20 pct.

"Thus, we presume that the price has gone up by 20 pct following a cartel and it becomes the task of those who formed the cartel to prove it was less. We introduced this provision as it is very hard for the court to prove the damage. Contrariwise, in what regards the abuse of a dominant position, we presume the existence of damages, but it falls on the one requesting damages to demonstrate the extent of damages," said the Competition head.

He offered as an example the actions of transport companies which are seeking damages following the formation of a cartel by truck producers and have started a joint lawsuit at the European level against them.

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