

A procedural fine of HUF 20 million for Cemex

The Competition Council of the Hungarian Competition Authority (GVH) imposed a procedural fine of HUF 20 million on Cemex Hungária Építőanyagok Kft. (Cemex) because the undertaking failed to provide accurate data to the GVH to enable it to impose a fine for an infringement.

In its decision made on 30 June 2014 the GVH imposed a fine of almost HUF 2.8 billion on eight undertakings manufacturing ready-mixed concrete and on the Hungarian Concrete Association because from 2005 to 2007 they shared their orders of ready-mixed concrete above 1000 m³, in the neighbourhood of Budapest according to a predetermined quota and they set the price of ready-mixed concrete. As a result of this behaviour, the above-mentioned undertakings and Association were found to have committed a single, continuous and complex infringement.

The Competition Council of the GVH obliged Cemex to disclose its gross and net turnover from the years 2005-2007 that resulted from the sale of ready-mixed concrete in Budapest and to also differentiate the turnover between orders of above and below 1000 m³. These data were needed to impose a fine for the infringement.

However, Cemex did not fully perform its obligations despite the time limit extension that was provided by the GVH; furthermore, the undertaking's reply to a repeated data request order contained further inaccuracies.

The GVH came to the conclusion that Cemex did not have a justified reason for failing to provide accurate data which meant that the GVH was unable to establish the facts that were necessary to impose a fine. The behaviour is considered to be more severe because the shortcomings cannot be remedied from other sources.

Considering the guidelines of the legal review court, the Metropolitan Administrative and Labour Court of Budapest, the GVH made its decision in a repeated procedure after the court procedure related to Cemex's legal remedy claim. While determining the amount of the procedural fine, the GVH assessed the gravity of the unlawful conduct, the degree of imputability (what can be reasonably expected in a given situation) and the financial status of the undertaking.

The GVH's decision is not final and a legal remedy may be sought against it.

Case number: **Vj/29/2011.**

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Hungarian Competition Authority

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