IN-DEPTH

Cartels And Leniency

LUXEMBOURG

LEXOLOGY

Cartels and Leniency

EDITION 14

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In-Depth: Cartels and Leniency (formerly The Cartels and Leniency Review) provides a practical overview of the laws and policies aimed at combating cartel activity across key jurisdictions worldwide. It addresses major emerging and unsettled issues surrounding unlawful agreements with competitors, and analyses recent enforcement trends and regulatory changes – offering valuable insights to practitioners and corporates alike.

Generated: June 4, 2026

Luxembourg

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Summary

Introduction

The legislative framework on cartels and leniency in Luxembourg essentially transposes relevant European Union directives with elements drawn from French and Belgian legislation.

The amended Law of 30 November 2022 on competition (the Competition Law) defines the powers of the Competition Authority in relation to cartels and leniency.

The data published on the website of the Competition Authority[1] demonstrate little enforcement activity in the cartel area and few leniency applications. Since 2018, decisions were adopted in 12 cases concerning cartel behaviour, eight of which concerned administrative dismissals. Based on published information, only in two of these cases were there leniency applicants. The most important fining decision of that period concerned alleged vertical price-fixing by supermarkets and was struck down by the administrative court as further detailed below. No information is available on possible leniency applications in pending investigations.

Year in review

There is little new activity to report for the year 2025.

An expansion of the staff of the Competition Authority in accordance with its revised and extended powers and independent status is ongoing.

In February 2025, the Competition Authority carried out inspections in the insurance sector.[2] No information was provided on the nature of the investigated practices. The investigation in the pharmaceutical and parapharmaceutical sector following inspections carried out in June 2024 appears to be ongoing.[3]

The Law of 20 November 2025[4] transposes Directive (EU) 2020/1828 and introduces a new collective redress regime in Luxembourg. It empowers qualified entities and public authorities, including the Competition Authority, to seek injunctions and collective compensation for unlawful practices and allows final administrative decisions to be used as a proof of an infringement. In cartel cases, this strengthens follow-up actions by victims once a violation has been established. By increasing civil liability risks linked to cartel conduct, the reform also enhances the strategic value of leniency, as early cooperation can mitigate not only fines but also downstream collective claims.

Finally, at a conference of the Luxembourg Competition Law Association at the end of 2025, the president of the Competition Authority announced that the authority will take a closer look at the issue of bid rigging in public procurement. The president highlighted a collaboration with the Swiss authority to use an advanced tool for detecting such behaviour, particularly in construction projects. In exchange, the Swiss would benefit from developments in artificial intelligence for competition law enforcement, created in partnership with the Luxembourg Institute of Science and Technology.[5][6]

Enforcement policies and guidance

Statutory framework

The Competition Authority (formerly known as the Competition Council) is the national authority competent to conduct cartel investigations within the Luxembourg territory.

In addition to the Competition Law, the law of 5 December 2016 on certain rules governing actions for damages for breaches of competition law, which transposed the EU damages directive into Luxembourg law (the Damages Law) is also relevant.

Key policies

The Competition Authority can intervene on its own initiative or at the request of any natural or legal person. The Competition Authority can also act at the request of the Minister of the Economy, for example, to conduct a sector enquiry.

In the absence of a national merger control regime,[7] the Competition Authority's activity focuses on all matters relating to anticompetitive practices. Based on the publications on its website, it acts mainly on the basis of complaints relating to cartels or abuses of dominant positions. It is also increasingly conducting enquiries in sectors that appear to be of particular interest from a competition law perspective.

The Competition Authority has set up a whistle-blower tool similar to that of the European Commission for persons who want to report breaches of EU or national law of which they have become aware in a professional context.

'Grey areas' and controversy

As regards the granting of immunity to a leniency applicant, the Competition Authority's decisions do not appear to be consistent. In the *Bahlsen* case, it was very reluctant to grant immunity to a company that, in its view, did not seem willing to cooperate fully.[8] The Administrative Tribunal disagreed on this point. However, in its 2023 decision relating to the cartel in the coffee distribution sector, it granted immunity to a company that arguably did not appear to be eligible for the leniency programme.[9] An appeal against that decision is pending.

Despite the strong safeguards of independence introduced in the Competition Law, the Minister for the Economy still holds the power to order a sector enquiry. [10]This power, even if it does not have a direct impact on the outcome of decisions, may nevertheless be used by the executive to pursue its political agenda and prevent the Competition Authority from concentrating its limited resources on the most urgent matters. In practice, the independence of the Competition Authority is generally viewed positively.[11]

Cooperation with other jurisdictions

Apart from requests for information within the framework of the European Competition Network, to the best of our knowledge, the Competition Authority has not yet made frequent use of the provisions concerning cooperation between national competition authorities. With the overhaul of the Competition Law and the new provisions contained therein, as well as the internationalisation of the Luxembourg economy, the Competition Authority could be further encouraged to make use of these provisions.

Legal basis for cooperation

Chapter 16 of the Competition Law provides for the possibility of cooperation between national competition authorities, the European Commission and the courts.

Article 66 provides for the possibility of carrying out an inspection or interview on behalf of another national competition authority. The Competition Authority may exchange information with the requesting authority and use it as evidence for that purpose, subject to the safeguards provided for in Article 12 of Council Regulation (EC) No. 1/2003.

According to Article 68 of the Competition Law, at the request of the applicant authority, the Competition Authority enforces decisions imposing fines or periodic penalty payments adopted by the applicant authority. This will only apply if the concerned undertaking does not have sufficient assets in the Member State of the applicant authority to enable recovery of the fine or periodic penalty payment. This may also apply if the company is not established in the Member State of the requesting authority.

At the same time, pursuant to Article 70 of the Competition Law, the Competition Authority may ask another national competition authority to enforce on its behalf decisions imposing fines or periodic penalty payments that it has adopted.

Article 74(4) provides that the Competition Authority only communicates leniency statements to national competition authorities under the following conditions:

1. with the consent of the applicant; or
2. if, like the Competition Authority, the receiving authority has received a leniency application from the same applicant concerning the same infringement.

Extradition

To the best of our knowledge, the Competition Authority has not yet received an extradition request from another country.

Article 1(2) of the law of 20 June 2001 on extradition states: "This law shall apply to criminal cases which, according to the law of the requesting State, fall within the jurisdiction of the judicial courts."

According to the parliamentary documents of the Competition Law, even if the procedures provided for by this law are similar to those provided for in the Code of Criminal Procedure, the matter nevertheless falls within the scope of administrative procedure. In addition, the law provides for administrative rather than criminal penalties.[12]

Given the administrative nature of Luxembourg competition law, extradition requests in a competition law context would be inadmissible in Luxembourg.

Jurisdictional limitations, affirmative defences and exemptions

Geographical reach

The Competition Law applies to all activities relating to the production and distribution of goods and the provision of services.[13] In addition, it prohibits all practices that have the effect of preventing, restricting or distorting competition on a market.[14] This means that the Competition Authority can prosecute undertakings located outside Luxembourg for practices that have an anticompetitive effect on a market in Luxembourg.

In a decision of 23 October 2013 concerning a market-sharing cartel in the railway sector involving agreements between competing rivals not to penetrate the territory of their competitors, the Competition Council held liable a Luxembourg company and some German companies for a violation of EU and national competition law.[15] The Competition Council imposed fines on two German companies that had no presence or sales in Luxembourg, but participated in a cartel whose sole purpose was to share markets.

Parent-subsidiary liability issues

Article 49(5) of the Competition Law provides that the Competition Authority applies the concept of undertaking for the purposes of imposing fines on parent companies and the legal and economic successors of undertakings.

In accordance with well-established EU case law, under the theory of economic unity, the Competition Council previously considered that a parent company may be held liable for the actions of its subsidiary, without it being necessary for the parent company to have been involved in the breach of competition rules.[16]

Leniency programmes

The Competition Law has amended the leniency regime. The new regime and conditions for leniency stem from Directive (EU) 2019/1; for example, markers were formally introduced, whereas when the Competition Council previously used them, they were not specified by law.

How to qualify for leniency

To be eligible for immunity from fines, the applicant must meet the following conditions:[17]

1. disclose its participation in a cartel;

2. be the first to provide evidence that:
    - at the time the Competition Authority receives the request, enables it to carry out a targeted inspection of the agreement, provided that the Competition Authority does not already have in its possession sufficient evidence to enable it to carry out such an inspection or has not already carried out such an inspection; or
    - in the opinion of the Competition Authority, is sufficient to enable it to find an infringement falling within the scope of the leniency programme, provided that the Competition Authority is not already in possession of sufficient evidence to enable it to find such an infringement and that no other undertaking has already qualified for immunity from fines under the above subparagraph in respect of that cartel; and
3. not having taken steps to compel other undertakings to join or continue to be part of a cartel.

If the applicant is not eligible for immunity from fines, it may nevertheless benefit from a reduction of the fine if it discloses its participation in the cartel and provides, before notification of the statement of objections, evidence of the alleged cartel that represents significant added value to the evidence already in the Competition Authority's possession.-[18]

In addition, to benefit from immunity or a reduction in fines, the applicant must meet the following cumulative conditions:

1. end its participation in the alleged cartel, except where, in the opinion of the Competition Authority, it is reasonably necessary to do so to preserve the integrity of its investigation;
2. cooperate genuinely, fully, consistently and promptly with the Competition Authority (see "Duties of cooperation" in "Leniency programmes"); and
3. during the period in which it is considering making a leniency application to the Competition Authority, it may not have:
    - destroyed, falsified or concealed evidence of the alleged cartel; or
    - disclosed its intention to make an application or the substance of the application, except to other competition authorities or to competition authorities of third countries.[19]

An undertaking wishing to apply for immunity or a reduction of fines may, as a first step, apply for the granting of a marker, which determines and protects its place in the order of arrival for the granting of leniency, for a period set by the Competition Authority on a case-by-case basis. This period allows the applicant to gather the information and evidence necessary to reach the level of proof required for immunity or reduction of fines.-[20]

The Competition Authority accepts summary applications from applicants who have applied for leniency from the European Commission, either by applying for a marker or by

filing a full application concerning the same alleged cartel, provided that such applications cover more than three Member States as territories concerned.[21]

In the decision of 17 July 2023 concerning a cartel in the coffee distribution sector, the leniency applicant, PC-Tank, was granted immunity despite the fact that it had filed its leniency application eight months after the Competition Authority's self-referral. In addition, the Competition Authority had already carried out dawn raids. PC-Tank was even interviewed a few days before filing its application.[22] It is therefore surprising that the Competition Authority considered that the conditions for obtaining immunity from fines had been met. An appeal against the decision is pending.

Duties of cooperation

The applicant must cooperate genuinely, fully, consistently and promptly with the Competition Authority from the submission of its application until the Competition Authority has terminated its enforcement proceedings against all parties under investigation by adopting a decision or has otherwise terminated its proceedings. Cooperation must include, in particular:

1. the provision by the applicant without delay of all relevant information and evidence concerning the alleged cartel;
2. making itself available to the Competition Authority to answer any questions that may help to establish the facts;
3. making directors, managers and other personnel available for interviews and making reasonable efforts to make former directors, managers and other personnel available for interviews;
4. refraining from destroying, falsifying or concealing relevant information or evidence; and
5. not disclosing the existence or substance of its leniency application before the Competition Authority has issued objections in the course of the enforcement proceedings before it, unless otherwise agreed.[23]

In the *Bahlsen* decision, the Competition Council stated that Bahlsen could not benefit from immunity following its leniency application because it did not cooperate until the end of the procedure. According to the Competition Council, Bahlsen adopted an ambiguous position because it did not give a legal qualification of the facts and it contested the facts that had been denounced, a position that did not facilitate the Council's task in establishing the existence of an infringement.[24]

On 14 December 2022, the Administrative Tribunal reformed the decision to say that Bahlsen enjoyed leniency and was therefore relieved of the fine imposed on it.[25] It rejected the Competition Council's arguments by affirming the following:

1. Bahlsen was the only leniency applicant and, thus, the first party to provide evidence;
2. the Council's factual findings and the analyses and tests carried out were based almost exclusively on the documents produced by Bahlsen in support of its leniency application;

3. the Council did not have at its disposal, at the time of the communication of these elements through the leniency application, sufficient evidence to conclude that there had been a violation of Article 3 of the Competition Law or of Article 101 of the Treaty on the Functioning of the European Union (TFEU);
4. the Council stressed that price-policing measures could take different forms, without it being necessary to demonstrate retaliation or reprisals. In the absence of evidence of such coercion, the Council was not entitled to deny the applicant's leniency;
5. the leniency opinion was clearly in favour of leniency, as was the statement of objections. The Council's change of attitude, not accompanied by convincing explanations, was such as to cast doubt on the seriousness of the arguments raised by the Council to refuse immunity, which is contrary to the principle of legal certainty;
6. Bahlsen had shown sufficient cooperation;
7. it was up to the Council to make a legal assessment of the alleged practice regarding the existence of a violation of competition law;
8. taking into account the context in which Bahlsen's submissions were made, one could not speak of a pure and simple challenge of the facts. Bahlsen had, in substance, only relativised a number of conclusions drawn by the Councillor from the evidence provided in support of the leniency application; and
9. the Council was wrong to accuse Bahlsen of a failure to cooperate merely because it addressed the price-monitoring rate in its written submissions.

The case illustrates some ambiguity in the position of the Competition Authority in assessing whether a company meets the conditions for immunity.

Discovery of materials surrendered as part of a leniency programme

The parties concerned by the statement of objections have access to the file and all the documents contained therein.[26]

Those parties may only use information from leniency statements and settlement submissions where this is necessary for the exercise of their rights of defence. This can only be done in the context of proceedings before national courts, in cases that have a direct link with the case in which access was granted, and only when these proceedings concern:

1. the apportionment between the participants in a cartel of a fine imposed jointly and severally on them by a national competition authority; or
2. an appeal against a decision by which the Competition Authority has found an infringement of Article 4 or 5 of the Competition Law or Article 101 or 102 of the TFEU.[27]

Penalties

As explained in the "Extradition" section of "Cooperation with other jurisdictions", the law only provides for administrative sanctions and not criminal sanctions. The method of imposing fines is based on that of the European Commission.

Settlement procedure

The possibility of a settlement has been newly introduced into the law in 2022. According to the parliamentary works, this is a flexible procedure, subject to discussion between the Competition Authority and the parties.[28]

Undertakings may voluntarily file their settlement declaration with the Competition Authority. This declaration contains an acknowledgement of participation in the violation. It also accepts the amount of the proposed fine, which is mentioned in the draft settlement decision.[29]

The settlement decision establishes the infringement and the fine and takes note of the settlement declarations. It is not subject to appeal.[30]

When calculating the amount of the fine, a reduction of up to 30% may be applied.[31]

Periodic penalty payments

The Competition Authority has the ability to impose on undertakings periodic penalty payments of up to 5% of average daily worldwide turnover, for each day of delay from the date set by the Competition Authority in its decision, to compel them to put an end to a breach of the competition provisions or to comply with a decision on commitments.[32]

Corrective measures

The Competition Authority may impose any corrective measure of a structural or behavioural nature, which is proportionate to the breach for which the undertakings are responsible and necessary to ensure that the breach is effectively brought to an end.[33]

Fines

Fines must be proportionate to the seriousness and duration of the acts in question, to the situation of the sanctioned undertaking or of the group to which the undertaking belongs and to any repetition of practices prohibited by the law. In the context of actions for damages for breaches of competition law, the Competition Authority may take into account any compensation paid following a consensual settlement. The maximum amount of the fine is 10% of the worldwide turnover in the past financial year. Where applicable, the turnover taken into account is that shown in the consolidated or combined accounts of the consolidating or combining undertaking.[34]

In a decision from 2023, the Competition Authority held that:

> The basic amount may be increased (aggravating circumstances) or reduced (attenuating circumstances) depending on the responsibility and role of each undertaking in the cartel. Aggravating circumstances may include the

repetition of an infringement, refusal to cooperate during the investigation and the role of leader or instigator of the infringement. Conversely, mitigating circumstances may include the fact that an undertaking can prove that it put an end to the infringement as soon as the Authority intervened (excluding secret agreements or practices), that the infringement was committed through negligence or that its participation in the infringement was substantially reduced.[35]

Association of undertakings

Concerning the fines imposed on associations of undertakings, the law provides that when a fine is imposed on an association of undertakings based on the turnover of its members and the association is not solvent, it is obliged to call for contributions from its members to cover the amount of the fine.[36]

If the Competition Authority imposes a substantial fine on an association, it cannot be excluded that a leniency applicant may be called upon to contribute to the payment of this fine and will therefore be fined, despite having reported the behaviour to the Competition Authority.

In this respect, the Competition Council held in a decision concerning an association of undertakings in the insurance sector (ACA), that: "As the burden of the fine imposed on ACA will ultimately be borne by its members, and in order to avoid them being penalised twice, the fine for ACA is set at the symbolic amount of 200 euros."[37]

'Day one' response

Inspectors must present a decision of the member of the Competition Authority in charge of the file authorising the inspection. The Competition Authority can conduct searches and seizures only based on a prior authorisation by the investigating judge at the Luxembourg district court. Authorisation is granted upon a motivated request by the member of the Competition Authority in charge of the file.[38] Authorisation documents identify the inspectors and judicial police officers entitled to conduct the inspection or dawn raid and their subject matter and purpose.[39] The undertaking may appeal the judicial authorisation, but the appeal does not suspend the dawn raid.[40]

The Competition Authority is empowered to:

1. enter any premises, land and means of transport of undertakings and associations of undertakings;
2. examine books, bills and other records related to the business, irrespective of the medium on which they are stored;
3. obtain copies of such books or records;
4. seal all business premises and books or documents for the duration of the inspection and to the extent necessary for the purposes of the inspection;
5. ask for information and justifications and record the answers; and
6.

obtain the necessary assistance from the police or an authority with equivalent powers of coercion to enable them to carry out their task.[41]

The Competition Authority may even enter any other premises, land and means of transportation, including managers' and employees' homes if there is a reasonable suspicion that books and other records related to the business can be found there.[42]

The investigators must be assisted, if necessary, by officers of the judicial police department competent in new technologies to seize data stored, processed or transmitted in an automated data processing or transmission system.[43] Data stored, processed or transmitted in an automated data processing or transmission system may be confiscated either by seizing the physical medium of the data or by making a copy of the data in the presence of the persons attending the inspection.[44]

The inspectors cannot read documents or get copies of documents that are covered by legal privilege (ie, written correspondence between the company and its external lawyers). Legal privilege does not apply to documents drafted by in-house lawyers. If legal privilege is contested, relevant documents can be put in a sealed envelope for later consideration.-[45] However, the inspectors are entitled to read and get copies of confidential documents (eg, covered by banking or business secrecy). If these documents are taken, the company may afterwards request that they are not disclosed to other parties during the subsequent proceedings.[46]

The presence of an external lawyer is allowed during the inspection although this is not a legal condition for its validity.[47] The inspectors will usually wait for a reasonable period (around 30 minutes) for external lawyers to arrive before starting their investigation. The law provides that dawn raids must not begin before 6.30am or after 8pm, and that they must be conducted in the presence of a manager of the undertaking or the occupant of the premises or their representative or, if they cannot be present, two witnesses.[48]

Minutes will be drawn up of objects and documents seized.[49] An undifferentiated seizure of data may be made, either by seizing the physical medium of the data or by making a copy of the data. The data seized indiscriminately must be sealed and subsequently sorted in the presence of the representatives of the undertaking at the Competition Authority's premises or at any other premises designated by the investigating officer.[50]

The investigating judge can order the company's IT experts to cooperate actively with the investigators, so that all the information sought is passed on to them.[51] In addition, obstructing an investigation may lead to fines.

Therefore, in anticipation of a dawn raid, companies should put in place an effective compliance programme to:

1. ensure that employees understand the types of behaviour that should be avoided;
2. make sure legally privileged documents are marked as such;
3. appoint and train persons responsible in case of a dawn raid at each company site;
4. inform reception and IT staff; and
5. establish a checklist containing names and phone numbers of contact persons, including in-house lawyers and external lawyers.

Furthermore, upon the inspectors' arrival:

1. in-house and external lawyers should be immediately informed;
2. the inspectors should be moved out of the reception area into a meeting room;
3. the inspectors should be asked for identification and a copy must be taken from said identification;
4. the inspectors should be asked about the purpose of the investigation and whether it is conducted by the European Commission or the Competition Authority;
5. a copy of the authorisation document allowing the inspectors to search the company's premises must be taken and its content verified (subject matter and scope of the investigation);
6. the total number of inspectors on site during the day must be checked and a corresponding number of external lawyers or company employees to accompany them should be gathered;
7. a meeting room for the inspectors should be prepared for the duration of the investigation with access to a photocopier, and a meeting room for the company team should be identified;
8. the inspectors should be asked to wait for the external lawyer's arrival (they are not obliged to do so); and
9. a company-wide email must be sent informing staff of the dawn raid and warning them to cooperate to the extent requested.

In addition, during the dawn raid, one should:

1. cooperate by allowing access to premises, including access to the IT environment and by providing relevant documents and information requested by the inspectors;
2. ensure that each inspector is shadowed at all times, preferably by a lawyer;
3. check whether documents reviewed or seized are relevant to the subject matter of the investigation and not protected by legal privilege – confidential documents must be provided but confidentiality, privilege and non-relevance claims should be voiced;
4. record rooms visited, files inspected, questions asked and search terms used;
5. take a copy of any document seized by the inspectors; and
6. answer straightforward questions relating to the location of documents, etc. – inspectors may also conduct interviews, though employees are not required to accept being interviewed and they have the right to be assisted by a lawyer and cannot be compelled to provide responses that would be self-incriminating.

Finally, after the dawn raid:

1. a debriefing should be held with the company team;
2. a person should be dedicated to review the evidence taken;

3. as soon as possible, it must be discussed how to further cooperate with the authorities and whether a leniency application is appropriate;
4. an internal and external communication strategy must be discussed with lawyers and the marketing team; and
5. the need for further internal audits of relevant activities should be considered.

Nobody should obstruct the investigation by:

1. refusing to cooperate;
2. trying to destroy, delete or hide any documents or files (whether paper or electronic);
3. leaving the inspectors unsupervised;
4. providing documents or information not expressly requested by the inspectors;
5. tampering with seals affixed during the dawn raid; or
6. leaking information about the ongoing investigation to outsiders.

Private enforcement

The Damages Law does not contain any provisions relating to collective actions and Luxembourg law does not provide for rules on private litigation funding. Collective actions are covered by the Law of 20 November 2025[52] which transposes Directive (EU) 2020/1828 and introduces a collective redress regime in Luxembourg. It empowers qualified entities and public authorities, including the Competition Authority, to seek injunctions and collective compensation for unlawful practices and allows final administrative decisions to be used as a proof of an infringement.

The Damages Law does not contain any rules by which a victim could quantify the damage suffered as a result of a breach of the competition rules. Nevertheless, Article 2 of the Damages Law provides that "there is a rebuttable presumption that violations committed in the context of a cartel cause damage". This makes it easier for victims to prove that they have suffered damage because of the cartel. The legislator also refers, in the parliamentary works, to the practical guide accompanying the communication from the European Commission on quantifying harm in actions for damages based on breaches of Article 101 or Article 102 of the Treaty on the Functioning of the European Union (TFEU).[53] The Competition Law also allows the courts to be assisted by the Competition Authority in quantifying the damage.[54]

The Competition Authority has the right to intervene in these proceedings before the judicial courts by filing written observations.[55] The courts may ask the Competition Authority to produce evidence contained in its file.[56] However, the judge limits the production of evidence to what is proportionate and takes effective measures to protect confidential information.[57] At no time may the judge order a party or a third party to produce evidence relating to statements made with a view to obtaining leniency and settlement proposals.[58] Other categories of documents held by the Competition Authority may be disclosed, but only once the proceedings are closed.[59]

In an interlocutory judgement of 3 May 2024, the Luxembourg Commercial Court declared a claim for follow-on damages with respect to a 2013 cartel decision of the then Competition Council in the rail switches sector admissible and not time-barred insofar as it was based on the general damages provisions of the Civil Code but inadmissible to the extent the Damages Law was invoked since the latter could not be applied retroactively.[60] The court appointed an independent expert to evaluate the size of the damage incurred.

Special considerations

The Competition Authority is willing to accept commitments without a definitive statement on the substance of a potential competition law infringement in accordance with Articles 57 and 58 of the Competition Law.

In the *Ordre des Architectes et des Ingénieurs-Conseils* matter, the statement of objections identified potential violations of Article 101 of the Treaty on the Functioning of the European Union (TFEU) and Article 4 of the Competition Law.[61] The Competition Authority found that the Ordre des Architectes et des Ingénieurs-Conseils (OAI) distributed to architects and engineers several documents aimed at establishing tariffs applicable to contract work in the public sector and the method of calculating fees for the public and municipal sectors. According to the Competition Authority's investigation, these practices could be qualified as "decisions by an association of undertakings" with the object of preventing, restricting or distorting competition. Those risks have been addressed by the OAI in a proposal for commitments, subject to a public consultation launched by the Competition Authority in October 2023. The commitments were definitively adopted on 25 March 2024.[62] The OAI committed, in essence, to no longer communicate to its members certain pricing arrangements and standard contract terms to apply in public tender procedures.

Outlook and conclusions

The 2023 decision on the coffee distribution cartel is under appeal and may lead to a ruling that could clarify certain points of the Competition Law.

Investigations of anti-competitive behaviour in the pharmacy and para-pharmacy sector[63] as well as the insurance sector gave rise to dawn raids and are ongoing.

All in all, it is possible to question to what extent the limited enforcement activity of the Competition Authority may be an illustration of its approach, expressed in its 2022 annual report available on its website (page 5), according to which it is "not just an authority that sanctions or prohibits, but above all a partner to the economy",[64] and whether such an approach is ultimately beneficial to protecting consumer interest. It remains to be seen whether the Competition Authority's whistle-blowing platform enabling anonymous reports to be received concerning breaches of EU or national law falling within the Competition Authority's remit will lead to increased enforcement activity in the coming years. This policy line seems to have been confirmed in 2025 with no decision having been published by the Competition Authority with regard to cartels and leniency.

Whether private damages litigation will pick up in Luxembourg is hard to predict. There are very few instances of private damages litigation pending in Luxembourg to date. To what extent this type of litigation evolves is also dependent on the level of enforcement activity and the general awareness of competition law and its impact on the market.

Endnotes

1 www.concurrence.lu. ^ Back to section

2 Competition Authority, "Inspections inopinées dans le secteur de l'assurance", https://concurrence.public.lu/fr/actualites/2025/02-03-inspections-assurance.html ^ Back to section

3 Competition Authority, "Inspections inopinées dans les secteurs pharmaceutique et parapharmaceutique", https://concurrence.public.lu/fr/actualites/2024/06-13-inspections-pharma.html. ^ Back to section

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6 ^ Back to section

7 A Bill of Law proposing to introduce a national merger control regime is pending before Parliament. ^ Back to section

8 Competition Council, Decision No. 2020-FO-03, *Bahlsen – Auchan*, 18 November 2020, Paragraphs 524–35. ^ Back to section

9 Competition Authority, Decision No. 2023-D-01, 17 July 2023. ^ Back to section

10 Competition Authority, *Enquête sectorielle dans le secteur de l'immobilier résidentiel : l'Autorité de la concurrence publie ses conclusions* (19 July 2023), https://concurrence.public.lu/fr/avis-enquetes/enquetes/2023/immobilier-residentiel.html. ^ Back to section

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19 id., Article 53. Back to section

20 id., Article 55(1). Back to section

21 id., Article 56(1). Back to section

22 Competition Authority, Decision No. 2023-D-01, 17 July 2023. Back to section

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24 Competition Council, Decision No. 2020-FO-03, *Bahlsen – Auchan*, 18 November 2020, Paragraphs 524–35. Back to section

25 Administrative Tribunal, 14 December 2022, No. 45683. Back to section

26 Competition Law, Article 38. Back to section

27 id., Article 74(2). Back to section

28 Luxembourg Parliament, "Projet de loi portant organisation de l'Autorité nationale de concurrence et abrogeant la loi 23 octobre 2011 relative à la concurrence", op. cit. note 9. Back to section

29 Competition Law, Article 47(4). Back to section

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31 id., Article 47(6). Back to section

32 id., Article 48(1). ^ Back to section

33 id., Article 46(2). ^ Back to section

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