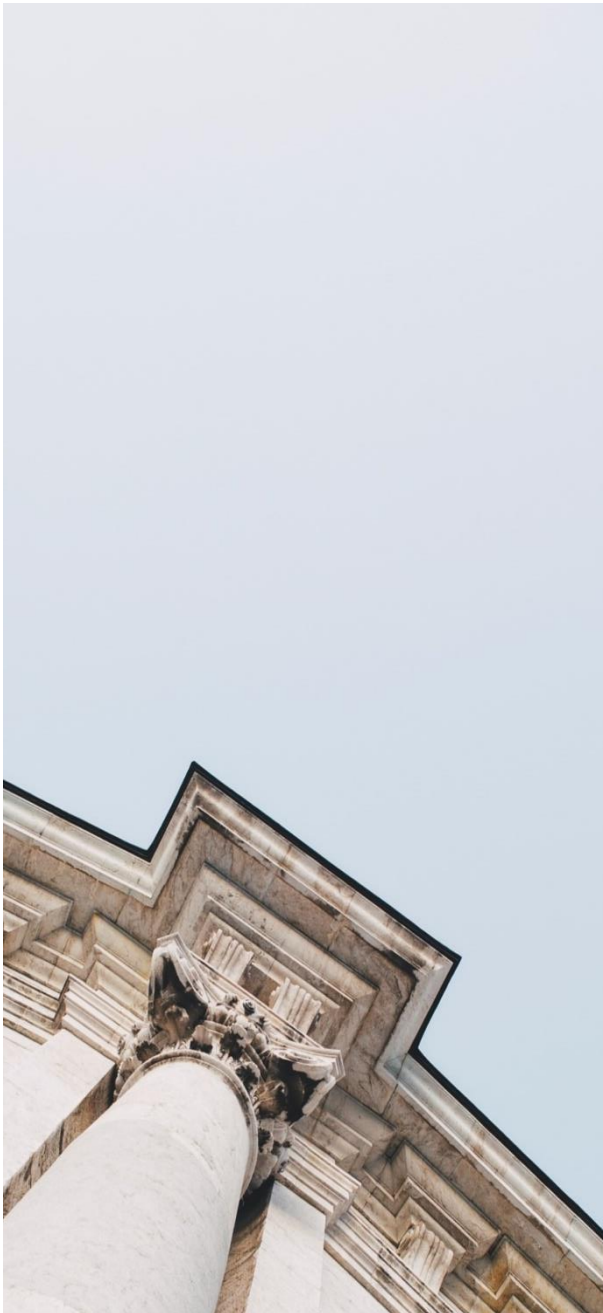

Procedure for obtaining a waiver or reduction of fines

Portugal - Legal Update

August 1, 2024



Key aspects

- > The Portuguese Competition Authority has approved [Regulation 747/2024](#) on the procedure for obtaining a waiver or reduction of fines under Law 19/2012 of May 8.
- > The leniency application can be made in writing or through oral statements, and it must contain a detailed account of the offense and the available evidence.
- > The waiver or reduction of the fine is stipulated by the Competition Authority in the final decision concluding the proceedings, and also implies the non-application of the additional penalty depriving the applicant of the right to participate in certain contracts.
- > The waiver or reduction of the fine may be revoked if the applicant carries out contradictory acts or acts that jeopardize its application and the existence of the offense.



Procedure for obtaining a waiver or reduction of fines

On July 11, [Regulation 747/2024](#) approved by the Portuguese Competition Authority was published in the Official Gazette of the Portuguese Republic (the “Regulation”). It approves the procedure for obtaining the waiver or reduction of fines under Law 12/2012 of May 8 (“Competition Act”) granted in administrative offense proceedings related to offenses with a horizontal aspect. The Regulation revokes Competition Authority Regulation 1/2013 of January 3, but essentially takes over from that revoked regulation.

The waiver or special reduction of fines is granted in administrative offense proceedings involving agreements or concerted practices prohibited by article 9 of the Competition Act and, where applicable, article 101 of the Treaty on the Functioning of the European Union, between two or more competing companies that aim to coordinate their competitive behavior in the market or influence relevant competitive variables, namely by fixing purchase or sales prices or other transaction conditions; allocating production or sales quotas; sharing markets, including concerted actions in auctions and public tenders; restricting imports or exports; or taking anti-competitive actions against other competitors.

The leniency application is submitted by means of a written application addressed to the Competition Authority, delivered in person to the Competition Authority’s headquarters, or sent by post or email, or using an electronic form. Alternatively, the application can be made through oral statements.

The application must contain the legally required information for the purpose, namely a detailed account of the offense. The applicant must also submit, in the original language, the evidence of the offense and, if applicable, the respective translation into Portuguese—an aspect referred to in the new Regulation. Any legally admissible evidence may be submitted and must be accompanied by a description of the facts it seeks to prove. The 2024 Regulation emphasizes the importance of the precision and detail that the information provided must contain.

A summary application can be made using the form provided in the Annex to the Regulation if the applicant has submitted a leniency application to the European Commission and the offense affects more than three Member States. It should be noted that, under the previous regulation, the summary application could be used if the applicant was still submitting its application to the European Commission, which does not seem to be the case now.

Later, the application is examined, and the Competition Authority makes its decision. The waiver or reduction of the fine is stipulated by the Competition Authority in the decision that terminates the proceedings for the respective applicant and applies to the amount calculated in line with the criteria established in the Competition Act for determining the amount of the fine.



The granting of a waiver or reduction of the fine includes the non-applicability of the additional penalty depriving the applicant of the right to participate in procedures for the formation of certain contracts—a point that was not mentioned in the previous regulation.

However, if, before the end of this procedure, the applicant carries out contradictory acts that jeopardize its application and the existence of the offense, the Competition Authority cannot grant the applicant a waiver or reduction of the fine.

The Regulation thus governs the application of a rule that is increasingly relevant in the current competition law setting and enables companies to obtain a waiver or reduction of the fine in return for their cooperation with the Competition Authority in eliminating anti-competitive behavior in the market.

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