

Report on Assessment of the state of convergence
ANNEX 1: list of applicable leniency programmes

ECN member	Name and Legal basis of the leniency programme	Entry into force of the leniency programme	Ongoing revisions
Austria	Title: Kronzeugenregelung Legal basis: Sec. 11 para. 3 to 6 Competition Act	1 January 2006	No
Belgium	Title: Immunity from Fines and Reduction of Fines in Cartel Cases Legal basis: Competition Council Notice on immunity from fines and reduction of fines in cartel cases. Article 49 and Article 11 §3 of the Belgian Competition Act of 10 June 2006 as coordinated on 15 September 2006.	22 October 2007	No
Bulgaria	Legal basis: Article 101 of Law on Protection of Competition, State Gazette, Issue 102 of 28.11.2008 (entered into force on 2 December 2008) Programme on Immunity from Fines or Reduction of Fines in case of participation of an undertaking in a secret cartel, adopted by Decision No 112/10.02.2009 of the Commission on Protection of Competition pursuant to Article 101 (5) of the Law on Protection of Competition	First Leniency Programme: January 2003 Second Leniency Programme: 10 February 2009	No
Cyprus	Legal basis: Law on the Protection of Competition 13(I)/2008 See footnote 12 of the Report.	18 April 2008	Yes
Czech Republic	Title: Program aplikace mírnějšího režimu při ukládání pokut (Leniency Programme on Imposition of Fines) Legal basis: Article 22 of the Act No. 143/2001 Coll., on the Protection of Competition and on amendment to certain Acts (Act on the Protection of Competition) The Leniency Programme also includes Notices C 101, 27/4/2004 on Leniency Application Programme for Setting Fines in Cartel Cases and C 298, 8.12.2006	First Leniency Programme: 1 July 2001 Second Leniency Programme: 28 June 2007	No
Germany	Title: Bekanntmachung Nr. 9/2006 über den Erlass und die Reduktion von Geldbußen in Kartellsachen – Bonusregelung vom 7. März 2006 (Notice no. 9/2006 of the Bundeskartellamt on the immunity from and reduction of fines in cartel cases - Leniency Programme - of 7 March 2006) Legal basis: Art. 81 sec. 7 Act against Restraints of Competition	7 March 2006	No

Denmark	Title: Det Danske Straflempelseprogram Legal basis: Section 23 a of the Danish Competition Act	1 July 2007	No
European Commission	Commission Notice on Immunity from fines and reduction of fines in cartel cases, 2006/C 298/11, published in OJ C 298/17. It replaced earlier notices from 2002 (2002/C 45/03, published in OJ C 45 of 19.2.2002, p.3) and 1996 (96/C 207/04, published in OJ C 207 of 18.07.1996)	8 December 2006 (see point 37 of the Leniency Notice)	No
Greece	Title: Leniency Programme [Decision of the Hellenic Competition Commission no. 299/V/2006, according to article 9 par. 4 of law 703/1977, as in force, on the terms and conditions governing immunity from fines or reduction of fines imposed to undertakings which contribute to the investigation of infringements of the provisions of the said law] Legal Basis: Article 9, par. 4 of law 703/1977, as in force	29 March 2006	Yes
Estonia	See footnote 12 of the Report		Yes
Spain	Legal basis: Competition Act 15/2007. Articles 65 and 66 regulate substantive issues and Royal Decree 261/2008 from 22 February 2008 includes procedural rules; it came into force on 28 February 2008	28 February 2008	No
Finland	Title: Leniency Programme Legal basis: Finish Act on Competition Restrictions (480/1992), incl. amendment (318/2004).	1 May 2004	Yes
France	Title: French commercial code ("FCC") and procedural notice on leniency ("communiqué de procédure sur le programme de clémence français") Legal basis: Section IV of Article L. 464-2 of the FCC sets out the principles and outlines of the programme. This provision was completed by Article R. 464-5 of the FCC. On 11 April 2006, the <i>Conseil de la concurrence</i> adopted a procedural notice relating to the French leniency programme, which specifies the way in which it implements these provisions. The procedural notice was revised on 17 April 2007 and readopted on 2 March 2009 by the <i>Autorité de la concurrence</i> . Status: Non-binding notice	15 May 2001	No
Hungary	Title: Act No. LVII. of 1996 on the Prohibition of Unfair and Restrictive Market Practices (hereinafter: Competition Act) Legal basis: Articles 78/A. and 78/B. of the Competition Act	First programme: 15 December 2003 Second programme: 1 June 2009	No

	<p>Other documents: Application form regulating the format, content in detail and way of submission of leniency applications Guidance of the President of the Hungarian Competition Authority (Gazdasági Versenyhivatal, hereinafter: GVH) on the GVH's leniency practice</p> <p>Status: Act – binding; application form: on the basis of the Competition Act, the application of the form is binding in leniency cases; guidance: non-binding</p>		
Ireland	<p>Title: Cartel Immunity Programme</p> <p>Legal basis: Notice. The Irish Competition Authority in conjunction with the Irish Director of Public Prosecutions, the Competition Authority operates the “Cartel Immunity Programme”. Under this system the Director of Public Prosecutions may – upon receipt of a recommendation from the Competition Authority – grant immunity from criminal prosecution to a person or undertaking engaged in cartel activity.</p>	20 December 2001	No
Italy	<p>Title: Leniency Programme</p> <p>Legal basis: Comunicazione sulla non imposizione e sulla riduzione delle sanzioni ai sensi dell'articolo 15 della legge 10 ottobre 1990, n. 287. Decision of the Authority no 16472 of 15 February 2007, issued on the basis of article 15(2-bis) of the Competition Act 1990, as amended by the law n. 248 of 4 August 2006</p>	15 February 2007	No
Latvia	<p>Title: Leniency Regulation</p> <p>Legal basis: Cabinet of Ministers regulations No 796 Procedures for the Calculation of Fines for the Violations referred to in Article 11, Paragraph 1 and Article 13 of the Competition Law adopted on 29 September 2008; issued according to Article 12, paragraph 4 and Article 14, paragraph 4 of the Competition Law (Regulation No 796)</p>	<p>First Programme: 23 October 2004 Second Programme: 3 October 2008</p>	No
Lithuania	<p>Title: Leniency Programme (Rules on the Exemption from And Reduction of Fines for the Participants of the Prohibited Agreements, approved by the Competition Council of the Republic of Lithuania)</p> <p>Legal basis: 1) Article 43(1) <i>Exemption from Fines</i> of the Law on Competition (general provision); 2) Section III <i>Reduction of a Fine in Respect of a Party to a Prohibited Agreement</i></p>	<p>Law on Competition entered into force on 3 April 1999 The current Leniency Programme entered into force on 9 March 2008</p>	No

	<i>Between Competitors</i> of the Rules on Setting Amount of a Fine Imposed for the Infringement of the Law on Competition approved by the Government of the Republic of Lithuania		
Luxembourg	Immunité et réduction des amendes, article 19 of the law of 17 May 2004 relating to competition Authorities' website: http://www.concurrence.public.lu/procedure/declenchement_procedure/clemence/index.html	30 May 2004	Yes
The Netherlands	Title: Richtsnoeren Clementie Legal basis: Leniency Guidelines on the non-imposition or reduction of fines under Articles 51, 56 paragraphs 1 and 4, 57, 62, 88 and 89 of the Dutch Competition Act in cartel cases	First Programme: 1 July 2002 Second Programme: 1 October 2007	No
Poland	Title: Leniency Programme (Program łagodzenia kar) Legal basis: Art. 109 of the Act of 16 February 2007 on Competition and Consumer Protection; Regulation of Council of Ministers of 26 January 2009 concerning the mode of proceeding in cases of enterprises' applications to the President of the Office of Competition and Consumer Protection for immunity from or reduction of fines; Guidelines of the President of the Office of Competition and Consumer Protection on the Leniency Programme	First Leniency Programme: 1 May 2004 Current Leniency Programme: 24 February 2009	No
Portugal	Legal basis: Law no 39/2006, of 25 August 2006 – Establishing the legal rules for immunity from and a special reduction of fines imposed for breach of the national competition rules Procedural Rules: Regulation no 214/2006, of 22 November 2006 – Procedural Regulation related to the proceedings referred to in Law no 39/2006.	November 2006	No
Romania	Title: Leniency Policy (Politica de Clementa) Legal basis: Guidelines on the conditions and criteria for applying a leniency policy on the basis of art. 51(2) of the Competition Law No 21/1996 These Guidelines were adopted by virtue of Order No 300 issued by the President of the Competition Council on 21 August 2009 and replace the previous guidelines	First Leniency Programme: 16 May 2004 Current Leniency Programme: 7 September 2009	No

	<p>adopted by Order No 93/2004 (published in Romania's Official Gazette No 430 of 13 May 2004). The current Guidelines were published in the Official Gazette No 610 of 7 September 2009.</p> <p>The text is available (only in Romanian) on the Competition Council's website at: http://www.consiliulconcurentei.ro/documente/Ordin+instructiuni_18409ro.pdf</p>		
Slovakia	<p>Title: Non-imposing or reducing a fine in some types of agreements restricting competition pursuant to the article 38 par. 11 and 12 of the act (NEULOŽENIE ALEBO ZNÍŽENIE POKUTY PRI NIEKTORÝCH TYPOCH DOHÔD OBMEDZUJÚCICH SÚŤAŽ PODĽA § 38 ODS. 11 A 12 ZÁKONA)</p> <p>Legal basis: Act No. 136/2001 Coll. On Protection of Competition and on amendments of the Act of Slovak National Council No 347/1990 Coll. on Organization of Ministries and Other State Administration Bodies of the Slovak Republic as amended, Article 38 (par. 11 and 12)</p>	<p>1 May 2001</p> <p>Last amendment is in force since 1 June 2009</p>	No
Sweden	<p>Title: Leniency and reductions of fines</p> <p>Legal basis: The Swedish Competition Act (SFS 2008:579) (legislation) and the General Guidelines of the Swedish Competition Authority on reduction of fines and immunity from fines (KKVFS 2009:2) (Guidelines to be adopted by the Swedish competition authority on 15 October 2009)</p>	<p>First Programme: 1 August 2002</p> <p>Fourth Programme: 15 October 2009</p>	No
United Kingdom	<p>Title: Leniency and no-action</p> <p>Legal basis: section 38 of the Competition Act 1998 under which the penalties guidance is published.</p> <p>Corporate leniency policy is contained in two documents: OFT's guidance as to the appropriate amount of a penalty (OFT423, Edition 12/04) (approved on 21 December 2004); Leniency and no-action: OFT's guidance note on the handling of applications (OFT803) (published on 11 December 2008).</p>	<p>21 December 2004 (current penalties guidance)</p> <p>11 December 2008 (guidance note on the handling of applications)</p>	No