

Associations of Undertakings the BCA perspective

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Legal context in Belgium

- The present articles IV.1 and IV.2 CEL and the equivalent provisions in the previous competition acts follow the model of the articles 101 and 102 TFEU.
- Until the entry into force of the 2006 Competition act, the agency could not impose sanctions on associations > the agency as reformed in 2007 could only impose sanctions in respect of behaviour after the entry into force of the 2006 act.
- The fining guidelines applicable between 2007 and 2014: Council may take into account the aggregate turnover of the members,
- The 2014 fining guidelines refer to the guidelines of the European Commission.

Some figures (2007-2014) (1)

- Procedures involving professional associations in respect of restrictive practices:
 - Complaints by associations: 15
 - Complaints against associations: 45
 - Interim relief procedures: 9
- Outcome:
 - Condemnation with fines: 3
 - Interim relief granted: 0
 - Other measures 9
 - Motivated dismissal: 17
 - Other dismissals: 40

Some figures (2007-2014) (2)

- ‘targets’:
 - Liberal professions: 20
 - Other regulated sectors: 7
 - Other sectors 42

Sanctions and remedies

- Fines:
 - Ex aequo et bono in a case in which members were also fined (€ 100 000, cement industry),
 - Only taking into account the associations' own turnover in other cases,
- Other measures:
 - Modification of relevant policies (commitments),
 - Information of stakeholders of the decision;
- Motivated dismissals, e.g.:
 - Practice had been accepted by relevant regulator,
 - The decision was not deemed to be binding,
 - The complainant had no sufficient interest,
 - No urgency in respect of interim relief, etc.