



Georgian Competition
and Consumer
Agency

**Order of the Chairman of the Competition Agency N 33 – “On
Approving the Rules of the Leniency Program and a full or
partial exemption from the imposition of a fine for the violation
of Article 7 of the Law of Georgia on Competition”**

Consolidated Version: 20.12.2023

On Approving the Rules of the Leniency Program and a full or partial exemption from the imposition of a fine for the violation of Article 7 of the Law of Georgia on Competition

Article 1. Purpose

The purpose of the Rule of the Leniency Program and a full or partial exemption of a person from the imposition of a fine for the violation of Article 7 of the Law of Georgia on Competition (hereinafter-the Rule) is to facilitate the detection of agreements restricting competition and the inclusion of persons participating in them in the process of developing a competitive environment in the relevant market.

Article 2. Definition of Terms

1. For the purpose of the Rule, the terms used here have the following meanings:
 - a) Person- an undertaking prescribed by Article 3 (a) of the Law of Georgia on Competition.
 - b) Application- information presented orally or in written form by an authorized representative of the person to the Georgian Competition and Consumer Agency (hereinafter – the Agency) regarding his/her participation in the leniency program.
 - c) Marking system- holding a place in line for the prospective beneficiary of the leniency program before he/she submits the information provided for by Article 5 (1), 6 (1a) and Article 7 within the period determined by the Agency.
 - d) Conditional status of the participant of the leniency program - granting a person conditional immunity of the first, second or third category of privileges.
2. Other terms used in this Rule have the meaning established by Law.

Article 3. Leniency program

1. The leniency program implies a full or partial exemption of a person from liability established by law if the person admits participation in the agreement provided for in Article 7 of the Law and simultaneously meets the conditions prescribed by law and this Rule.
2. For the purpose of the Law and this Rule, exemption of a person from liability implies his/her full or partial exemption from imposition of a fine established by law for violation of Article 7 of the Law.

Article 4. Classification of the privileges stipulated by the leniency program.

1. The privileges provided by the leniency program may be of the first, second and third category.
2. The first category relief implies 100% exemption of a person from liability.
3. The second category relief refers to the release of a person from liability from 20% to 50%.
4. The third category relief implies a 20% exemption from liability

Article 5. Eligibility for participation in the leniency program

1. Any person who acknowledges in writing the participation in the program provided for in Article 7 of the Law and meets the requirements established by law and this Rule shall be eligible for participation in the leniency program.
2. The privileges provided for by law and this Rule do not apply to the initiator of the program, as well as to the person who forced other persons to participate in the program.
3. If the information/documentation presented by a person benefiting from the leniency program additionally increases their liability, the person will not be burdened with the liability of a fine imposed for the violation of Article 7 of the law, provided that the information/documentation they presented is of essential importance to the case and assists the agency in the investigation process.

Article 6. The terms for enjoying the privileges provided by the leniency program

1. A person provided for in the first paragraph of Article 5 of this Rule may participate in the leniency program and enjoy the privileges provided for by this program if he/she simultaneously meets the following requirements:
 - a) provides to the Agency, orally or in writing, information known to him/her, evidence related to an agreement provided for by Article 7 of the Law before the Agency receives this information from other sources;
 - b) acknowledges in writing the participation in the agreement provided for in Article 7 of this law;
 - c) during the investigation process, continuously and unrestrictedly cooperates with the Agency;

- d) ceases to participate in an unlawful agreement unless the Agency considers that the person's continued participation in this agreement will facilitate the investigation of the case;
- e) will not destroy documents and evidence important for the case;
- f) will not disclose information about participation in the leniency program.

2. Cooperation with the agency includes the delivery of all documents/information in the possession of the person benefiting from the leniency program that are of essential importance to the case, as well as constant coordination with the agency (including persons employed by the undertaking benefiting from the leniency program), reporting, providing explanations, and clarifying additional circumstances relevant to the case in order to investigate the issue in detail.

Article 7. Terms for submitting an application

1. The application submitted to the Agency by a person wishing to participate in the leniency program shall include the following information:
 - a) details of the natural person submitting the application (full name, personal number, actual address, telephone number, email);
 - b) details of the legal person (name of the organization, organizational and legal form, identification number, legal address, details of the head of the organization and email);
 - c) information about the alleged violation of Article 7 of the Law, including:
 - c.a) name and identification data of other persons participating in the program;
 - c.b) a detailed description of the agreement provided for in Article 7 of the Law and the roles of the persons participating in it;
 - c.c) the product and geographic market where the agreement takes place.
 - c.d) duration of the agreement;
 - c.e) other important information related to the case;
 - c.f) evidence regarding the alleged violation of law;
 - c.g) date of application submission (year, day, month, hour, minute) and signature.
2. The application shall be accompanied by a document confirming the authority of the natural person submitting it.
3. The application to the Agency shall be submitted individually, on behalf of a specific person.

4. In case of joint submission of an application to the Agency by two or more persons, only the third category may be assigned to the persons submitting the application.
5. A written application shall be submitted to the Agency in accordance with Appendix 1.

Article 8. Procedure for the submission of the application

1. In order to participate in the leniency program, a person shall apply to the Agency and submit the information specified in Articles 6 and 7 of this Rule.
2. Person may submit an application to the Agency in electronic form if it meets the requirements of Article 7 of this Rule.
3. In case of an oral application by a person to the Agency, the Agency's staff member draws up a protocol, which reflects the actual information presented by the person, and the relevant evidence is attached as an appendix. The protocol is signed by the Agency's employee drawing up the protocol and the person submitting the oral application. As the time of receiving the oral application shall be considered the day, hour and minute when they started to draw up the protocol.
4. A person is entitled to contact the Agency anonymously and receive relevant information about the leniency program before submitting an official application to the Agency.
5. After receiving the application, the Agency shall issue a written notice of its receipt, indicating the date and time of receipt.
6. The Agency shall review the application in the order of its submission time (the sequence corresponds to the date of submission).
7. If the application does not meet the requirements set forth in the first paragraph of Article 5, the first paragraph of Article 6, subparagraph "a" of Article 6, and Article 7 of this Rule, the Agency shall mark the application, inform the person in writing about this and set a deadline for eliminating the deficiency when the applicant should submit information and evidence determined by the Agency. Information shall be deemed submitted at the time when the person was marked as having submitted the application within the specified period.
8. In case of failure to provide relevant information and evidence within the period determined by the Agency, the marking shall be considered automatically annulled.
9. If the Agency determines that the application meets the requirements set forth in the first paragraph of Article 5, the first paragraph of Article 6, subparagraph "a" of Article 6, and Article 7, it shall make a decision in a 10 (ten) working days to grant the person the

conditional status of a participant in the leniency program, taking into account the submission of a complete application and/or the order determined by the marking and shall inform the person in writing about the above-mentioned in a 3(three) working days after the decision is made.

9¹. In the event that the agency, within the scope of its discretionary authority, considers that the application submitted by a person for participation in the leniency program does not meet the content requirements established by this rule, and therefore it is inappropriate to reject the application in accordance with the procedure established by paragraph 7 of this article, the agency is entitled to leave the application unreviewed without granting the marking status. The agency will inform the relevant person in writing within five (5) working days.

10. The person is entitled to withdraw the application at any stage of the application review. Despite the withdrawal of the application, the Agency shall keep the information and evidence provided by the person and for the investigation of the case. In this case, the identity of the person submitting the application shall remain confidential.

11. If the investigation of the case has not yet started and the application contains relevant information, the Agency is authorized to start investigating the case in accordance with law. In this case, the investigation shall be deemed initiated by the Agency.

Article 9. Decision on the full or partial exemption of a person from the imposition of a fine

1. Within the framework of the leniency program, the Agency shall make a decision on the full or partial exemption of a person from the imposition of a fine prescribed by law immediately after the completion of the case investigation. When making a decision, the Agency shall evaluate the person's fulfillment of the conditions established by this Rule.

2. The conditional status of the first category privilege shall be granted to the person who is the first to submit an application to the Agency for participation in the leniency program provided for by Article 7 of the Law, and the provided information, essential/valuable to the case will not be known to the Agency.

3. The conditional status of the second category privilege shall be granted to the person who is the second to submit the application for participation in the leniency program, provided for by Article 7 of the Law. In addition, the information presented by this applicant shall be deemed as complementary to the information provided by the first

person who submitted the application, and at the same time, the provided information essential/valuable to the case will not be known to the Agency

4. The conditional status of the third category privilege shall be granted to a person who is the third and subsequent person submitting an application for participation in the leniency program provided for by Article 7 of the Law. In addition, the information provided by this applicant shall be deemed complementary to the information provided earlier, and at the same time, the provided information essential/valuable to the case will not be known to the Agency. The same terms shall be applied to the case defined by Article 7 (4) of this Rule.

5. The conditional status of a participant in the leniency program shall be removed if it becomes clear to the Agency that the information provided by the person is false.

6. The conditional status of a participant in the leniency program shall also be removed if the Agency determines that he/she does not fulfill the requirements established by subparagraphs "b"- "f" of Article 6 (1) of this Rule.

7. The conditional status of the category of the person whose status was removed or who withdrew his/her application shall be granted to the person next in line.

Article 10. Protection of the Confidentiality

1. Confidentiality of the information obtained within the leniency program shall be protected in accordance with Article 20 of the Law.

2. Data on the person/persons participating in the leniency program and the information/documentation submitted by these persons to the agency are kept confidential by the agency until a final decision is made as a result of the case investigation. After the completion of the investigation, the mentioned information and documentation shall be subject to the protection regime provided for in this article.

Annex 1

Application for participation in the leniency program

1. Information about the applicant:

a) natural person submitting the application:

Full

name _____

Personal
number _____

Actual
address _____

Telephone
number _____

Email _____

b) Legal person

Name of the
organization _____

Organizational and legal
form _____

Identification
number _____

Legal
address _____

Details of the head of the organization

Email _____

2. Information about the alleged violation of Article 7 of the Law

a) name and identification data of other persons participating in the illegal agreement
(name of the organization, organizational and legal form, legal address)

b) a detailed description of the agreement provided for in Article 7 of the Law and the roles of the persons participating in it:

c) relevant product market

d) relevant geographic market

e) duration of the agreement

g) Other important information related to the case

h) Evidence:

Evidence

#1 _____

—

Evidence

#2

—

Evidence

#3 _____

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3. **Date** (year, day, month, hour, minute) _____

4. **Signature of the applicant:**
