



# **INDEPENDENCE OF A COMPETITION AUTHORITY WHISTLEBLOWERS. ECN PLUS**

## **CASE OF LITHUANIA**

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Council Member

2018-12-05 Warsaw



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- No special whistleblowers' program for competition law infringements
- **New proposal** tabled 2018 12 04
- Questions remain as to the relationship between the proposal and the draft Whistleblowers' Directive

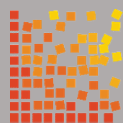


## The New Proposal – Screenshot of the draft 2018 12 05

- Natural Persons
- National Equivalent of Art. 101
- Remuneration upon finding an infringement
  - 1% of all fines imposed for the infringement
  - $1000 \text{ EUR} < x < 100\,000 \text{ EUR}$
- Confidentiality
- Not part of a leniency application by a company



**Is ECN + indeed empowering?**



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”

*In our view EU competition rules (Art. 101 and 102 TFEU) are effectively enforced by the Competition Council of the Republic of Lithuania – according to the Law on Competition, the Competition Council has all the necessary enforcement powers (full institutional independence, ability to prioritize the cases, all necessary investigative and enforcement toolbox and ability to impose sanctions, leniency programme etc.). Therefore we do not see the need for any EU action for enhancing the enforcement of EU competition rules and we think that national legislation is enough to ensure the independence of the competition authority.*

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*Reply of the Lithuanian Ministry of Economy to Commission's Public Consultation on Empowering the national competition authorities to be more effective enforcers*

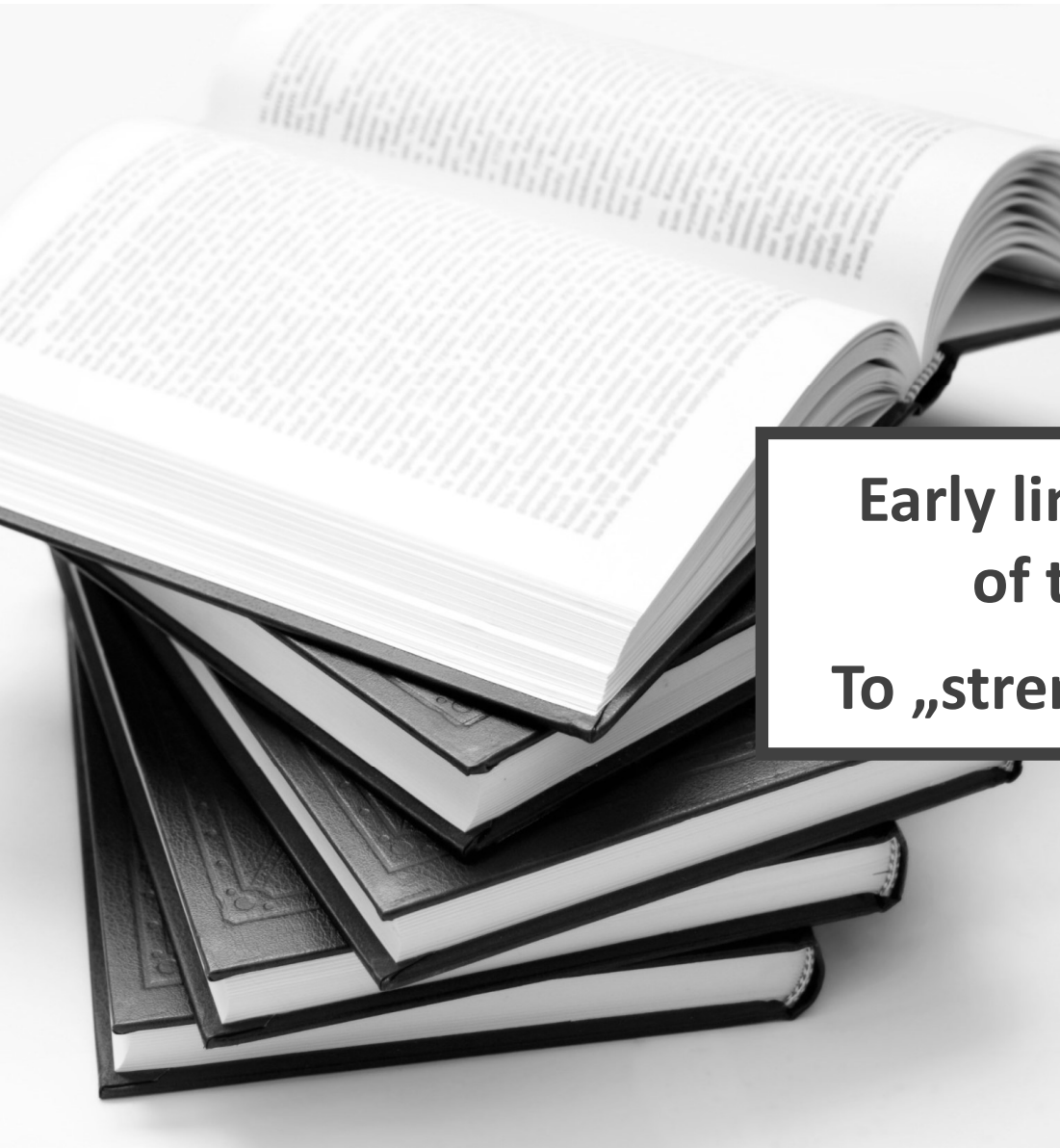


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## Main ECN+ provisions under the current law

Fundamental Rights to parties	+
Legal Independence in everyday work, appointment/dismissal	+
Right to set priorities	+
Right to access information	+
Right to raid private homes	+
Right for a continued inspection	+
Resources	?





**Early limited implementation as part  
of the Government package.  
To „strengthen competition authority“**

## Implementation ECN + Screenshot 2018 12 05

- Scope of the power to **summon to interviews** expanded to all persons
- **Commitments** – a discretion for the NCA
- **Structural remedies** in cases of breach of Eq. of Art. 101 and 102 TFEU
- **New sanctions** –
  - detailed list of obstruction of the investigative actions
  - misleading information
  - breach of interim measures or commitments
  - 10% - direct effect on competition / 1% - effect on the investigation
  - additional periodical penalty payments







## **WAY FORWARD?**

- Independence fully put in action?
  - NOTE: Investigations into public bodies
  - Political culture
- Resources?
- Advocacy ?
- Even more trust among the NCAs ?



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