

Calculating GDPR fines: Lessons from competition law

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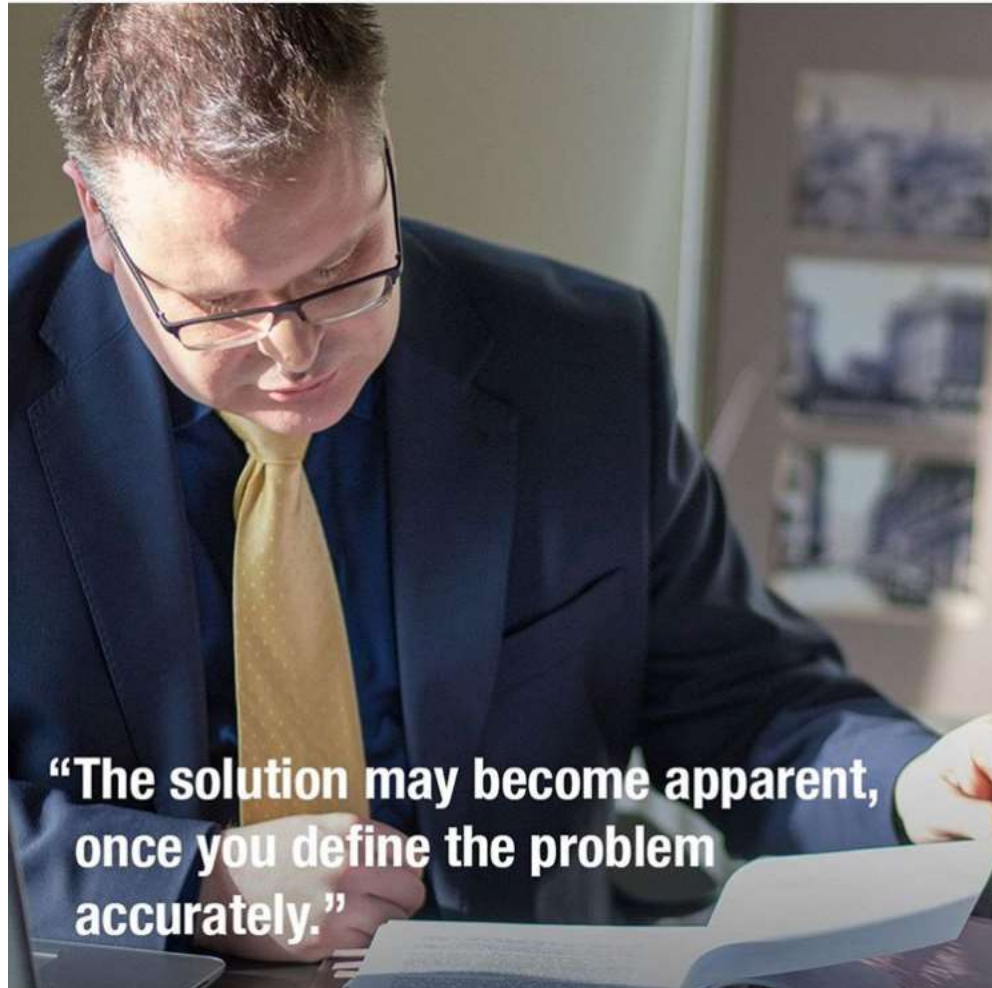
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GDPR Article 83.1:

Each supervisory authority shall ensure that the imposition of administrative fines (..) shall in each individual case be effective, proportionate and dissuasive.





What are effective, proportionate and dissuasive fines for a breach of the GDPR?



WP29 & CJEU: The concept of an undertaking is understood to mean

an economic unit,
which may be formed by the parent
company and all involved subsidiaries



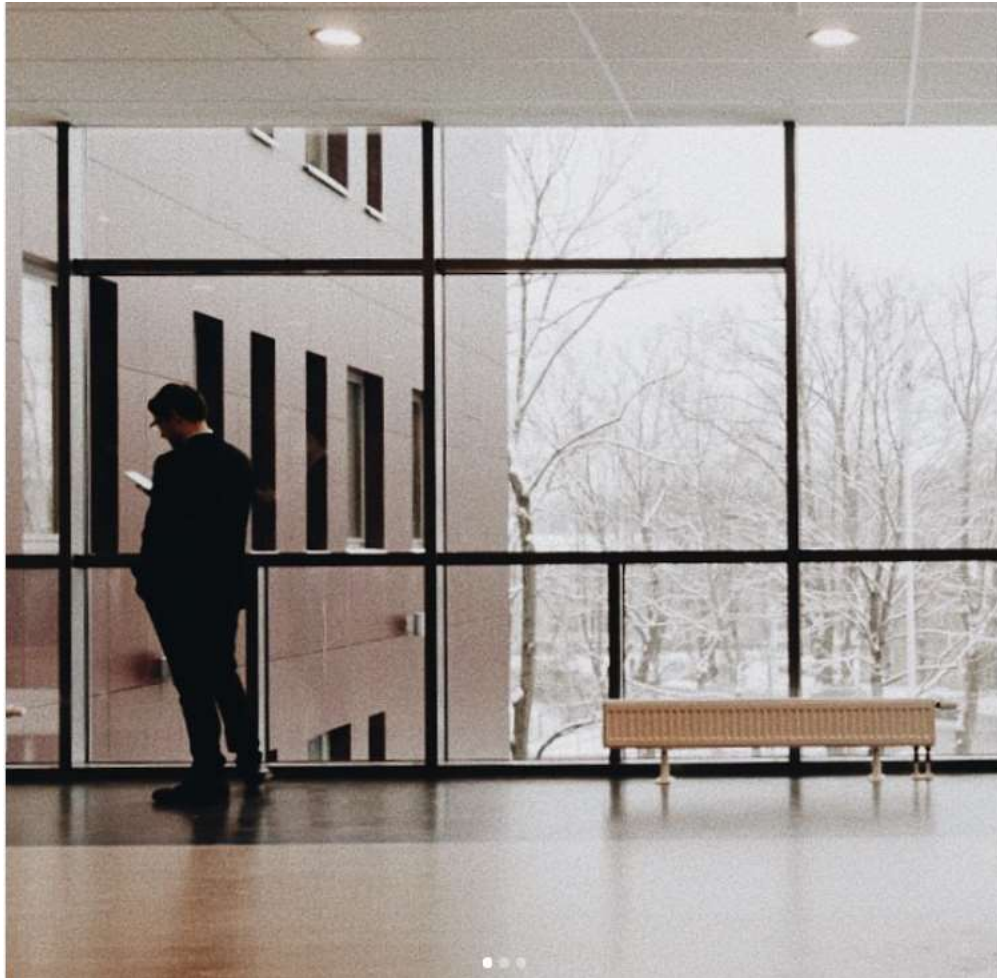
Is your company and its parent or subsidiaries
part of the same economic unit?



Option A:

If SWECO holds 100% shares in LVCO,
then assume decisive influence over the commercial policy and
conduct of its subsidiary





Option B:

If ESTCO exercise management power over LVCO, then decisive influence over the commercial policy and conduct of its subsidiary can be proved



Option C:

If FINCO controls the behavior of LVCO based on a contractual relationship.

Processors?



Bottom line:

Parents shall be fined for breaches
by subsidiaries, unless you prove
independence.



LATVIA

The Competition Council has imposed over EUR 24 Mio in total amount of fines upon 156 companies since 2010.

LITHUANIA

194 companies fined with EUR 135,7 Mio

ESTONIA

8 companies fined with EUR 23,120

BELARUS

101 companies fined EUR 79,910 since 2010





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