FIN-FSA
FINANCIAL SUPERVISORY AUTHORITY

Capital Markets Supervision

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Public

Questions and answers – obligation to launch a bid and conditional imposition of fine	
1. Question	How will the process continue?
Answer (updated on 9 April 2019, 27 April 2020 24 August 2020, 5 July 2021, 19 September 2021 and 6 November 2025)	**1. Imposition of obligation to launch a bid and conditional imposition of a fine** On 21 February 2018, the Financial Supervisory Authority (FIN-FSA) obliged Danko Koncar to launch a public bid for Afarak shares and imposed a running conditional fine to enforce the obligations stated in the decision. In its decision, the FIN-FSA required that Koncar publish a bid within a month from service of the decision. A public notice by FIN-FSA on the decision on Koncar was published in the Official Gazette on 11 April 2018. The FIN-FSA considered Koncar to have been informed of the decision on the seventh day from the publication of the notice, that is, on 18 April 2018 and therefore the deadline imposed on Koncar to launch a bid to have lapsed on 18 May 2018. *Appeal and demand for prohibition of enforcement* Koncar appealed the decision to the Helsinki Administrative Court. When lodging appeal, Koncar also applied for a prohibition of enforcement. By an interim decision rendered on 21 June 2018, the Helsinki Administrative Court rejected the appeal for a prohibition of enforcement. Subsequently, by a decision rendered on 3 September 2018, the Supreme Administrative Court rejected Koncar's application for a permission to appeal the interim decision of the Helsinki Administrative Court concerning prohibition of enforcement. On 1 March 2019, the Helsinki Administrative Court rejected the appeal made by Koncar to repeal the FIN-FSA decision of 21 February 2018. According to the Administrative Court, the FIN-FSA had not served the decision to Koncar in accordance with the Act on Conditional Fines, but because it is obvious in the case that Koncar has been informed of the decision, his appeal was taken under investigation by the Administrative Court. Furthermore, the Administrative Court considered that the defective service of the decision should not be considered a procedural error that would have materially affected the decision and that none of Koncar's rights have been deprived as a result. The decision of the Administrative Court is not yet legally binding. It may be appealed to the Supreme Administrative Court if it grants permission to appeal. The permission to appeal must be sought within 30 days of service of the decision of the Administrative Court. According to the Supreme Administrative Court, a permission to appeal from the decision of the Administrative Court has been sought. *Termination of the process* On 24 April 2020, the Supreme Administrative Court decided not to grant Danko Koncar leave to appeal in the matter concerning the obligation to launch a bid for Afarak Group Plc shares. Therefore, the decision of the Helsinki

Administrative Court remains in force and the FIN-FSA decision on the obligation to launch a bid is now legally binding.

2. Ordering of conditional fine

On 9 July 2018, the FIN-FSA ordered Koncar to pay the base amount of the conditional fine of 40,000,000 euro and the supplementary amount of 10,000,000 euro accrued by that date. The conditional fine was ordered payable since Koncar failed to publish a bid by 18 May 2018 or to present a valid reason for non-compliance with the obligation.

The deadline for appealing the decision started running from the date when the decision was served to Koncar against proof or receipt. Koncar was served the decision by means of service by public notice published in the Official Gazette on 5 October 2018. The FIN-FSA considered Koncar to have been served the decision on the seventh day after publication of the public notice in the Official Gazette, that is, on 12 October 2018.

Appeal and demand for prohibition of enforcement

According to the Helsinki Administrative Court, the decision was appealed on 12 November 2018 and in connection therewith a prohibition of enforcement was applied. By an interim decision rendered on 3 December 2018, the Helsinki Administrative Court prohibited the enforcement of the conditional fine so that Koncar's assets may be seized but not sold.

On 1 March 2019, the Helsinki Administrative Court rejected the appeal made by Koncar to repeal the FIN-FSA decision of 9 July 2018 ordering Koncar to pay the base amount of the fine, 40,000,000 euro. However, the Administrative Court repealed the FIN-FSA decision regarding the supplementary amount of 10,000,000 euro on the grounds that the first supplementary amount had not yet accrued by the time when the appealed decision was made. The Administrative Court deemed that the date of service of the decision shall be the date when the appeal concerning the imposition of the conditional fine was received by the Administrative Court, 16 May 2018. As a result, the bid should have been published at the latest on 16 June 2018 and the first supplementary amount accrued on 16 July 2018. The decision of the Administrative Court is not yet legally binding. It may be appealed to the Supreme Administrative Court if it grants permission to appeal. The permission to appeal must be sought within 30 days of service of the decision of the Administrative Court. According to the Supreme Administrative Court, a permission to appeal from the decision of the Administrative Court has been sought.

Termination of the process

On 24 April 2020, the Supreme Administrative Court decided not to grant Danko Koncar leave to appeal in the matter concerning the ordering of the conditional fine payable. Therefore, the decision of the Helsinki Administrative Court remains in force and the FIN-FSA decision on ordering the fine payable, with respect to the base amount, is now legally binding.

	3. Ordering of supplementary amounts of conditional fine On 14 June 2019, the FIN-FSA has ordered Danko Koncar to pay the supplementary amounts of the conditional fine accrued from 17 June 2018 until 16 May 2019, amounting to 110,000,000 euro. The decision to order the supplementary amounts of the conditional fine payable is not legally valid. Koncar has the right to appeal the decision to the Helsinki Administrative Court within 30 days of the date of service of the decision. Further, the FIN-FSA has on 21 August 2020 ordered Koncar to pay the supplementary amounts of the conditional fine accrued from 17 May 2019 until 16 May 2020, amounting to 120,000,000 euro. The decision to order the supplementary amounts of the conditional fine payable is not legally valid. Moreover, on 21 August 2020, the FIN-FSA has ordered Koncar to pay the supplementary amounts of the conditional fine accrued from 17 May 2019 to 16 May 2020, totalling 120,000,000 euro. The supplementary amounts of the conditional fine were ordered payable since Koncar failed to launch a bid for shares in Afarak Group Plc or to present a valid reason for non-compliance with the obligation. On 23 June 2021, the Helsinki Administrative Court rejected Koncar's demand to repeal the FIN-FSA decision of 21 August 2020. The decision may be appealed to the Supreme Administrative Court if it grants permission to appeal. The permission to appeal must be sought within 30 days of service of the decision of the Administrative Court. According to information received from the Supreme Administrative Court, the decision has not been appealed within the prescribed period, and therefore it is legally binding. On 5 November 2025, the FIN-FSA has ordered the supplementary amounts of the conditional fine accrued from 17 September 2020 to 16 September 2021, totalling 120,000,000 euro, payable by Koncar. The supplementary amounts of the conditional fine were ordered payable since Koncar failed to launch a bid for shares in Afarak Group Plc or to present a valid reason for non-compliance with the obligation.
2. Question	Is the decision related to the demand made by Afarak's minority shareholders on 18 September 2017?
Answer	The FIN-FSA began to process the matter after Afarak's minority shareholders presented a demand to the FIN-FSA on 18 September 2017 to order Koncar and/or Kermas Resources Limited to make a public bid for Afarak shares at the price of at least 2.50 euro per share. However, the FIN-FSA examined, at its own initiative, the issue of Koncar's obligation to launch a bid more extensively than regarding the so called Finaline transactions. Hence, the FIN-FSA decision does not constitute a resolution of the minority shareholders' demand, as it will be resolved separately.
3. Question	Why there are three separate conditional fines imposed on Koncar? Is it possible that he will have to pay all of them?

Answer	The Act on Conditional Fines requires that a separate conditional fine be imposed for each obligation. Three separate conditional fines are imposed on Koncar, because there are three separate obligations imposed on him. Since the obligations imposed on Koncar must be fulfilled one by one, the conditional fines will not in practice accumulate on top of each other.
4. Question	How will the decision affect investors who were shareholders in Afarak in 2009 but have subsequently sold their shares?
Answer	A public bid is addressed to the shareholders of the company at the time. If a previous shareholder in Afarak considers to have suffered a loss due to the neglect of the obligation to launch a bid, they may require damages in court from the party who failed to comply with the obligation to launch a bid.
5. Question	Will the FIN-FSA seek protective measures to ensure payment of the conditional fine?
Answer (updated on 16 November 2018)	The provision on applying for security measures in section 35 a of the FIN-FSA Act only applies to a penalty payment and an administrative fine, not to a conditional fine.
6. Question	How will the conditional fine be collected?
Answer (updated on 12 March 2019)	The FIN-FSA has sought enforcement of the conditional fine in Finland. Enforcement is the responsibility of the enforcement authority. Further information on enforcement and its publicity in general is available on the enforcement website at www.oikeus.fi/ulosotto/en/index.html
7. Question (added on 6 November 2025)	How will the receivables based on the ordering decisions of the conditional fine expire?
Answer (added 6 November 2025)	The receivables will expire in accordance with section 20 of the Act on the Recovery of Taxes and Fees by Recovery Proceedings (706/2007).
8. Question (added on 27 April 2020)	What does the decision of the Supreme Administrative Court mean in practice for the FIN-FSA's actions and the continuation of the process?
Answer (added on 27 April 2020)	As a result of the decisions made by the Supreme Administrative Court, the decisions of the Helsinki Administrative Court, and therefore also of the FIN-FSA, became legally binding. This means that they are final, and it is no longer possible to seek to have them changed through an actual appeal process. Following the decision of the Supreme Administrative Court, it has been conclusively affirmed that Koncar must launch a public takeover bid for Afarak shares.

	However, this decision does not have a practical impact on the actions of the FIN-FSA, since the FIN-FSA has already been able to enforce the decisions it took in 2018 in accordance with the Act on the Financial Supervisory Authority. With respect to the decision on the obligation to launch a bid, enforcement means that the FIN-FSA ordered the conditional fines imposed to enforce the obligation to launch a bid payable because Koncar failed to publish a bid for shares in Afarak Group Plc or to present a valid reason for non-compliance with the obligation. With respect to the decision on the imposition of the conditional fines, the FIN-FSA has sought enforcement of the conditional fine in Finland by the enforcement authority. The conditional fines imposed to enforce compliance with the obligation to launch a bid will accumulate in accordance with the FIN-FSA decision for as long as the obligation remains unfulfilled. The purpose of the conditional fine is to enforce the obligee to launch a takeover bid. However, although the decision concerning the obligation to launch a bid is now legally binding, the FIN-FSA is unable to foresee Koncar's actions.
9. Question (added on 27 April 2020)	How is the collection of the conditional fines affected by the fact that the FIN-FSA decisions are now legally binding?
Answer (added on 27 April 2020)	Since the FIN-FSA decisions have now become legally binding, the prohibition of the enforcement of the conditional fine is no longer valid (see answer 1 above). In accordance with the prohibition of enforcement, Koncar's assets could be seized but not sold. The FIN-FSA applied to the enforcement authority for the enforcement of the conditional fine in Finland already in December 2018. The FIN-FSA does not have authority in the collection of conditional fines. The collection of conditional fines is the responsibility of the enforcement authority. The purpose of the FIN-FSA's decision is that Koncar complies with the obligation to launch a bid and launches a takeover bid for Afarak shares. The sole purpose of conditional fines is to enforce the obligee to launch a takeover bid. Any conditional fines imposed and collected will be paid to the state.