

5 November 2025
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Partially secret

FIVA/2025/1437
Openness Act 24 (1) 23

Recipient
Danko Koncar

Subject

Ordering payment of supplementary amounts of conditional fine

Unofficial translation

1 Decision

The FIN-FSA orders Danko Koncar (hereinafter Koncar) to pay the 12 supplementary amounts accrued from 17 September 2020 until 16 September 2021, amounting to a hundred and twenty million (120,000,000) euro, of the conditional fine imposed in the FIN-FSA decision of 21 February 2018 (Reg. no. FIVA 17/02.05.05/2017, hereinafter the FIN-FSA decision or the decision imposing the conditional fine). The conditional fine is payable to the state of Finland.

Koncar has failed to comply with the obligation imposed on him in the FIN-FSA decision to publish a mandatory bid referred to in chapter 6, section 10 of the Securities Markets Act (495/1989, hereinafter the SMA)¹ for shares issued by Afarak Group Plc (hereinafter Afarak) and securities issued by Afarak carrying entitlement to its shares as provided in the SMA within a month of being served the FIN-FSA decision. In its decision of 1 March 2019 (06266/18/7201), the Helsinki Administrative Court considered that the date of service of the decision imposing the conditional fine shall be the date when Koncar's appeal was received by the Administrative Court, i.e. 16 May 2018. Koncar has not published a bid required by the decision imposing the conditional fine within a month of service of the decision, i.e., at the latest on 16 June 2018. Koncar has not presented a valid reason for his failure to comply with the obligation.

The obligations and the running conditional fines imposed in the FIN-FSA decision to enforce them remain in force.

The Board of the FIN-FSA has made this decision regarding the ordering of payment of the supplementary amounts of the conditional fine in its meeting on 5 November 2025.

¹ In accordance with chapter 19, section 6, subsection 1 of the Securities Markets Act (746/2012) that replaced the Securities Markets Act (495/1989), if the bid threshold has been exceeded prior to the entry into force of the Act, the provisions of the Act to be repealed shall be applied. Hence, this decision refers to the provisions of the repealed Securities Markets Act.

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2 Hearing

In its letter dated 9 September 2025 (FIVA/2025/1437), pursuant to section 22 of the Act on Conditional Fines (1113/1990) and section 34 of the Administrative Procedure Act (434/2003) referred to therein, the FIN-FSA provided, prior to decision-making, Koncar an opportunity to express his opinion on the matter and to submit an explanation on such demands and information which may have an effect on the resolution of the matter. Koncar responded to the FIN-FSA by a letter dated 19 October 2025.

3 Justifications for the decision

3.1 Background

The FIN-FSA has, by its decision issued on 21 February 2018, obliged Koncar on the basis of section 33 a of the Act on the Financial Supervisory Authority (878/2008, hereinafter the FIN-FSA Act) to:

1. publish a mandatory bid referred to in chapter 6, section 10 of the SMA for Afarak shares and securities issued by Afarak carrying entitlement to its shares as provided in the SMA within a month of being served the FIN-FSA's decision;
2. after the obligation under paragraph 1 has been filled, to launch a bid procedure as provided by the SMA within a month of publishing the mandatory bid; and
3. after the obligation under paragraph 2 has been filled, to execute the bid in accordance with its terms and conditions.

In order to enforce the abovementioned obligations 1–3, the FIN-FSA has imposed, on the basis of section 33 a of the FIN-FSA Act, a conditional fine referred to in section 9 of the Act on Conditional Fines as follows:

- 1) as regards the obligation to publish a mandatory bid referred to above in paragraph 1, the base amount of the conditional fine is forty million (40,000,000) euro and supplementary amount ten million (10,000,000) euro per each full month during which the obligation was not complied with;
- 2) as regards the obligation to launch a mandatory bid procedure referred to above in paragraph 2, the base amount of the conditional fine is forty million (40,000,000) euro and supplementary amount ten million (10,000,000) euro per each full month during which the obligation was not complied with; and

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- 3) as regards the obligation to execute a bid referred to above in paragraph 3, the base amount of the conditional fine is forty million (40,000,000) euro and supplementary amount ten million (10,000,000) euro per each full month during which the obligation was not complied with.

In its decision rendered on 1 March 2019 (06266/18/7201), the Helsinki Administrative Court considered that the date of service of the decision imposing the conditional fine shall be the date when Koncar's appeal was received by the Administrative Court, i.e. 16 May 2018. Koncar has not published a bid required by the decision imposing the conditional fine within a month of service of the decision, i.e. at the latest on 16 June 2018 and has not presented a valid reason for non-compliance with the obligation. The decisions of the Helsinki Administrative Court and the decision imposing the conditional fine became legally binding on 24 April 2020 when the Supreme Administrative Court rejected Koncar's application for a leave to appeal.

The FIN-FSA ordered Koncar to pay the base amount of the conditional fine on 9 July 2018 and supplementary amounts of the conditional fine on 14 June 2019. The receivables based on these legally valid decisions have expired in accordance with section 20 of the Act on the Recovery of Taxes and Fees by Recovery Proceedings (706/2007). The receivable based on the FIN-FSA's legally binding decision of 21 August 2020, whereby it ordered Koncar to pay supplementary amounts of the conditional fine amounting to a hundred and twenty million (120,000,000) euro, has not expired.

3.2 Ordering of the supplementary amounts of the conditional fine accrued from 17 September 2020 to 16 September 2021 payable

Content of the hearing letter

In the hearing letter, the FIN-FSA stated that it is considering taking measures to order the 12 supplementary amounts of the conditional fine accrued from 17 September 2020 to 16 September 2021, totalling a hundred and twenty million (120,000,000) euro, payable because the main obligation under section 1 of the decision on the imposition of the conditional fine has not been complied with, and, in the FIN-FSA's view, no valid reason has been provided for the non-compliance.

Koncar's view

The matter concerns the ordering of the supplementary amounts of the conditional fine accrued from September 2020 to September 2021 payable. These supplementary amounts can no longer be ordered to be paid. Although no specific expiry period has been stipulated for supplementary amounts, the legislator's starting point is that a demand to that effect should be made within a short timeframe. The matter at hand concerns a

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hearing carried out in 2025 and a subsequent decision concerning supplementary amounts accrued in 2020–2021. The right to order such supplementary amounts payable has been lost due to the time elapsed and the authority's own inactivity.

The FIN-FSA's view

The FIN-FSA finds that the supplementary amounts of the conditional fine accrued from 17 September 2020 to 16 September 2021 can be ordered payable under the Act on Conditional Fines on the grounds presented in this decision.

According to the preparatory works of the Act on Conditional Fines², the fundamental principle of a running conditional fine is that a conditional fine is imposed only once, after which its amount accrues and can be ordered payable repeatedly until the main obligation is fulfilled. No expiry period has been stipulated for the supplementary amounts of a running conditional fine. The Act on Conditional Fines only limits the total amount of supplementary amounts that can be ordered at once. In accordance with section 10, subsection 2 of the Act on Conditional Fines, a maximum of three times the base amount of the fine can be ordered payable as supplementary amounts at once, and any supplementary amounts exceeding this, accruing from conditional fine periods starting before to the decision of the ordering of the conditional fine is made, will lapse.

According to the preparatory works of the Act on Conditional Fines, a running conditional fine could reach significant amounts if the authority is also passive. Therefore, the amount of a running conditional fine to be ordered is limited by regulation. According to the preparatory works of the Act, if a conditional fine has reached the maximum amount that can be ordered at once, but the ordering takes time, accrued amounts lapsing in the interim period could not be ordered payable at a later date. However, the conditional fine would begin to accrue again after the ordering and could be ordered payable again without a new decision on imposition.

The fact that the FIN-FSA has not ordered supplementary amounts of the conditional fine payable after 20 August 2020 and prior to this decision does not affect the FIN-FSA's ability to order the 12 supplementary amounts accrued after 17 September 2020 payable. Supplementary amounts of the conditional fine accrued after 16 September 2021 will lapse in accordance with the Act on Conditional Fines and will begin to

² Government proposal 63/1990.

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accrue again for conditional fine periods starting after this ordering decision.

The FIN-FSA finds that the Act on Conditional Fines or other regulation does not specify any deadlines for how often supplementary amounts of a running conditional fine must be ordered payable. The conditional fines ordered to be paid by Koncar based on the FIN-FSA's ordering decisions made in 2018, 2019 and 2020 totalled 270 million euros. If the FIN-FSA had taken measures to order new accrued supplementary amounts of the conditional fine payable, for example in 2021, this would have resulted in the supplementary amounts of the conditional fine exceeding the total amount of the imputed bid consideration of 379 million euros referred to in section 3.3.3 of the FIN-FSA decision on the imposition of the conditional fine.

The purpose of a conditional fine is to compel the obliged party to comply with the main obligation. The FIN-FSA has sought the enforcement of the conditional fine in Finland. The enforcement authority is responsible for the execution of the enforcement. Due to the expiration of the receivables based on the abovementioned ordering decisions of the conditional fine, the FIN-FSA has taken measures in 2025 to order the 12 supplementary amounts of the conditional fine accrued from 17 September 2020 to 16 September 2021 payable.

3.3 Substantive prerequisites for ordering the supplementary amounts of the conditional fine payable

Content of the hearing letter

Koncar has not published a bid required by the decision imposing the conditional fine within a month of service of the decision, i.e., at the latest on 16 June 2018, and has not presented a valid reason for non-compliance with the obligation.

The FIN-FSA ordered Koncar to pay the base amount of the conditional fine on 9 July 2018 and supplementary amounts of the conditional fine on 14 June 2019. The receivables based on these decisions have expired. The receivable based on the FIN-FSA's decision of 21 August 2020, whereby it ordered Koncar to pay supplementary amounts of the conditional fine amounting to a hundred and twenty million (120,000,000) euro, has not expired.

The FIN-FSA is considering taking measures to order payable the 12 supplementary amounts accrued from 17 September 2020 until 16 September 2021, totalling a hundred and twenty million (120,000,000) euro, since the main obligation under paragraph 1 of the decision imposing the

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conditional fine has not been complied with, and, in the FIN-FSA's view, no valid reason has been stated for the non-compliance.

The FIN-FSA considers that the prerequisites to order the 12 supplementary amounts of the conditional fine accrued from 17 September 2020 until 16 September 2021 payable have been met.

Koncar's view

According to Koncar, neither he personally nor any company in which he has held control, has owned shares or voting rights in Afarak Group Plc in an amount obliging Koncar to launch a mandatory public bid. The legally binding decision issued by the Administrative Court in the matter is naturally well known to all parties involved. According to Koncar, an objective examination of the legal facts underlying that decision clearly shows that Koncar was not an indirect owner of Afarak Group Plc shares as alleged. A key issue under consideration has been who has exercised control in Kermas. According to Koncar, this person was [REDACTED] A [REDACTED], who has been heard as a witness under oath in the Helsinki District Court. [REDACTED] A [REDACTED] has unequivocally stated he was the sole party exercising control in Kermas.

Koncar finds that various statements made in the matter have been confused factually and substantively. For example, Afarak Group Plc's insider register unambiguously describes Koncar as "390 Other basis for control" in combination with the basis "301 Insider's control". According to Koncar, this specifically means that control in Afarak Group Plc was exercised by [REDACTED], and the matter has been correctly reported in the company's insider register. The FIN-FSA has also been aware of this entry all along. The same information has also been stated unequivocally in Afarak Group Plc's listing prospectus for the London Stock Exchange. The FIN-FSA has also been aware of the content of this public market document.

According to Koncar, the grounds presented above make it completely clear that Kermas is [REDACTED] A's [REDACTED] controlled entity and has not been Koncar's controlled entity. Nevertheless, Koncar has had a role in Kermas. He has managed the company's banking and financial matters in accordance with [REDACTED] A's [REDACTED] instructions. However, according to Koncar, this does constitute control in Kermas or over the Afarak Group Plc shares owned by it.





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The FIN-FSA's view

Koncar has not launched a mandatory bid for Afarak shares and securities issued by Afarak carrying entitlement to its shares. Hence, the obligation 1 imposed in the FIN-FSA decision has neither been complied with, nor a valid reason as determined by the FIN-FSA's has been provided for the non-compliance.

As to the claims made by Koncar on control over Kermas and on the arising of the obligation to launch a bid, arguments are presented in the legally binding decision on the imposition of the conditional fine and in the legally binding decision of the Helsinki Administrative Court (19/0135/3). In its decision, the Helsinki Administrative Court states, inter alia, as follows: "Having assessed the evidence received in the matter as a whole and taking particular account of the documentary evidence concerning the years 2008 and 2009, the Administrative Court finds it established that, during the periods under review, Kermas was under the appellant's control within the meaning of chapter 1, section 5 of the Securities Markets Act and that the appellant is therefore deemed comparable to a shareholder referred to in chapter 6, section 10 of the Securities Markets Act."

Fulfilment of prerequisites to order the supplementary amounts of the conditional fine payable

Koncar has not published a bid required by the FIN-FSA's decision within a month of service of the decision, that is, at the latest on 16 June 2018. Hence, Koncar has not complied with obligation 1 imposed on him in the FIN-FSA decision. No valid grounds for failure to comply with the obligation have been presented.

The supplementary amount of the running conditional fine imposed in the FIN-FSA decision is ten million (10,000,000) euro per each full month during which the obligation is not complied with. The total amount of supplementary amounts of a conditional fine which can be ordered payable by one decision is limited to three times of the base amount, i.e. up to a hundred and twenty million (120,000,000) euro in this case.

Since the obligations still have not been fulfilled, the FIN-FSA considers that the preconditions have been met to order the 12 supplementary amounts accrued from 17 September 2020 until 16 September 2021 payable, totalling a hundred and twenty million (120,000,000) euro.

The obligations and the running conditional fines imposed on Koncar in the FIN-FSA's decision to enforce them remain in force.

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3.4 Amount of conditional fine

Content of the hearing letter

In his responses concerning the imposition of the conditional fine or ordering the conditional fine payable, Koncar has not presented any evidence of [REDACTED]

[REDACTED] Koncar may also fulfil the obligations imposed in the FIN-FSA decision so that the mandatory bid is made in his stead by an entity fully owned and controlled by him.

Koncar's view

[REDACTED]
According to Koncar, it is entirely clear that the conditional fines are [REDACTED]
[REDACTED] Koncar finds them clearly punitive in nature.

The FIN-FSA's view

The FIN-FSA states that the conditional fine procedure does not constitute a punitive sanction but, rather, a way of administrative enforcement whereby the authority seeks to have the concerned party rectify its non-compliance with a statutory obligation.

In accordance with section 11 of the Act on Conditional Fines, a conditional fine may be ordered payable at a lower amount than that imposed if the main obligation has been fulfilled in material respects, the payment capacity of the obligor has been significantly impaired or there are other justified grounds to reduce the amount of the conditional fine.

The FIN-FSA states that the justifications to the amount of the conditional fine are presented in section 3.3.3 of the decision on the imposition of the conditional fine. [REDACTED]

Koncar has not fulfilled the main obligation imposed to him in any respect. Koncar has not presented any clarification of his payment capacity being significantly impaired after the imposition of the conditional fine. Neither



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has he presented any clarification of him or the entities controlled by him having even sought to raise funding in order to publish and execute a bid.

Koncar has, by particularly reprehensible conduct, failed to comply with the provisions on the obligation to launch a bid. Koncar's misconduct has served to undermine confidence in the securities markets. Therefore, the FIN-FSA considers that there are no other justified grounds referred to in section 11 of the Act on Conditional Fines to reduce the amount of the supplementary amounts of the conditional fine.

Based on the grounds presented above, the FIN-FSA considers that the 12 supplementary amounts of the conditional fine accrued from 17 September 2020 to 16 September 2021 shall be ordered payable at the amount imposed.

4 Applicable provisions

In accordance with section 33 a, subsection 1 of the FIN-FSA Act:

If a supervised entity or other financial market participant has in its activities failed to comply with the provisions governing financial markets, or the regulations issued thereunder [--], the Financial Supervisory Authority may, under a conditional fine, order the supervised entity or other financial market participant to fulfil its obligations, provided that the negligence is not negligible. The conditional fine may also be targeted, subject to special grounds, at a person employed by a supervised entity or by another financial market participant or at anyone else acting on behalf of such person. The provisions of this subsection shall also apply to such other undertaking belonging to a conglomerate as referred to in the Act on the Supervision of Financial and Insurance Conglomerates that fails to meet its responsibilities under the said Act or the regulations issued thereunder.

In accordance with section 33 a, subsection 4 of the FIN-FSA Act:

Unless otherwise provided in other acts, the Financial Supervisory Authority shall decide on ordering payment of a conditional fine. The provisions of the Act on Conditional Fines shall otherwise apply to the imposition and ordering payment of conditional fines.

In accordance with section 10, subsections 1 and 2 of the Act on Conditional Fines:

An authority which has imposed a conditional fine may order it payable if the main obligation has not been complied with and no valid reason has been stated for the non-compliance. A conditional fine may be ordered payable once the decision on its imposition has gained legal effect, unless the decision has been provided as valid regardless of any appeal.



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The amount of supplementary amounts of a conditional fine which can be ordered payable by one decision is limited to three times of the base amount. Any supplementary amounts exceeding this amount and concerning conditional fine periods which started before the decision was made to order the conditional fine payable will lapse.

Section 11 of the Act on Conditional Fines provides as follows:

A conditional fine may be enforced at a lower amount than that imposed if the main obligation has been fulfilled in material respects, the payment capacity of the obligor has been significantly impaired or there are other justified grounds to reduce the amount of the conditional fine.

5 Disclosure of the decision

The FIN-FSA states that, in accordance with section 43 of the FIN-FSA Act, the main rule is that the FIN-FSA shall disclose its decisions on ordering conditional fines payable. The FIN-FSA considers that, by virtue of section 43, subsection 2 of the FIN-FSA Act, there are no grounds to leave the ordering of the conditional fine payable undisclosed.

FINANCIAL SUPERVISORY AUTHORITY

TERO KURENMAA

Tero Kurenmaa
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Enclosures

Appeal instructions

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Appendix

Instructions for appeal

Anyone wishing to lodge an appeal against the findings of the decision is requested to do so in writing to the Helsinki Administrative Court.

The appeal must be made within 30 days of notification of the decision. The appeal period excludes the day of notification of the decision.

If the decision has been posted in registered post (an advice of receipt), the date of notification is indicated in the receipt. The receipt is annexed to the appeal documents. If the decision has been posted as an ordinary letter, it shall be considered to have been notified within seven (7) days of the dispatch date, unless otherwise indicated. If the decision has been notified as an electronic message, it shall be considered to have been notified on the third day from the sending of the message, unless otherwise indicated. If the decision has been notified in another manner, for example against receipt to a third party other than the recipient of the decision (surrogate notification), the recipient of the decision shall be considered to have been notified of the decision on the third day from the date indicated in the receipt.

The appeal must be lodged in writing within the prescribed period to the Helsinki Administrative Court.

The petition of appeal, made to the Helsinki Administrative Court, must contain the following:

1. the decision to which the appeal relates
2. the aspects of the decision that should be amended and the changes being sought,
3. the grounds for the demands,
4. on what the right of appeal is based, if decision to which the appeal relates is not directed at the appellant.

The appeal must also state the name and contact information of the appellant. If right of attorney has been transferred to the appellant's legal representative or authorised proxy, the contact information of this person must also be stated. When the appeal is pending, any change of contact information must be notified to the Administrative Court without delay.

The petition must also state the postal address and any other address to which the documents relating to the proceedings can be sent (*process address*).

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The petition must include the following annexes:

1. the decision which is the subject of the appeal, and the appeal instructions,
2. a clarification as to when the appellant was notified of the decision, or other clarification of the date of commencement of the appeal period,
3. documents relating to and supporting the grounds for the appeal, unless they have already been delivered to the authority that made the decision,
4. the letter of attorney of the legal representative, if the authorised proxy is other than a lawyer, public legal-aid counsel or licensed legal counsel referred to in the Act on Licensed Legal Counsels.

If electronic documents submitted to the authorities define the scope of powers of the legal representative, the legal representative is not required to present a letter of attorney. The Helsinki Administrative Court may, however, demand that a letter of attorney be presented if it has reason to question the scope of powers of the legal representative.

The appeal may be submitted to the Helsinki Administrative Court personally, shipped by post, by email, by fax or through an agent or courier. An appeal may also be made in the electronic service of the administrative and special courts, at the address <https://asiointi.oikeus.fi/hallintotuomioistuimet>.

Using the electronic service, email, post or fax or submitting the appeal through a courier is done at the responsibility of the appellant. The petition must arrive at the Helsinki Administrative Court at the latest on the last day of the appeal period, during its opening hours. Electronic documents must be received so that they are, before the end of the appeal period, in a processable format in the reception equipment or information system of the Helsinki Administrative Court.

A court fee in accordance with the Act on Court Fees (1455/2015, <https://finlex.fi/fi/laki/ajantasa/2015/20151455>, in Finnish) will be charged for the handling of the case in the Helsinki Administrative Court. The fee is EUR 310 (the Ministry of Justice Decree on the Revision of Fees Provided for in Section 2 of the Act on Court Fees, 1020/2024, [Oikeusministeriön asetus tuomioistuinnmaksulain 2... 1020/2024 - Säädökset alkuperäisinä - FINLEX®](#), in Finnish). The Act on Court Fees contains separate provisions on cases where no fees are charged.

Contact information

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