

New competition law adopted

On 24 November 2022, Luxembourg enacted a new law on competition ("**Law**"), aiming to overhaul the current competition legislation and transpose into Luxembourg law Directive (EU) 2019/1 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market ("**Directive**"). The Law repeals and replaces the law on competition of 23 October 2011.

Why is it important? The Law transforms both the internal organisation and the statute of the Competition Council (*Conseil de la concurrence*). It becomes an "*établissement public*" and will be renamed "National Competition Authority" (*Autorité de concurrence du Grand-Duché de Luxembourg*) ("**Authority**"). In addition, the Law modifies the powers of the Authority during the investigation phase as well as certain other elements of procedure, such as those concerning the content and handling of complaints, the Authority's duty to state reasons and the availability of appeals to different types of decisions. It also provides for the possibility of a settlement in competition proceedings and specifies the conditions for leniency. Certain elements of procedure applied in practice are now formalised in the Law.

Impact? The Law is due to enter into force on 1 January 2023. It is organisational and procedural in scope. Hence, the definition and appreciation of competition law infringements (in essence, agreements or concerted practices restricting competition or abuses of dominant positions) remain unchanged.

Moreover, it is important to note that the Law does not introduce a national merger control regime. On this topic, a draft bill has been announced for Spring 2023 but this timetable may seem unlikely in view of the Parliamentary elections scheduled to take place on 8 October 2023.

As the Law is expected to strengthen the Authority, an important effort of recruitment is envisaged. Useful procedural clarifications and additions, such as regarding complaint handling or the conditions for settlement and leniency increase legal certainty and are to be welcomed.

It is hoped that the Law will further increase the effectiveness of the application of competition law in Luxembourg. For a more detailed overview of the changes envisaged by the Law, please read [here](#).

For any further information please contact us or visit our website at www.elvingerhoss.lu.

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