

Is merger control in Luxembourg forthcoming?

Currently, Luxembourg is the only EU Member State without a national merger control regime.

In essence, merger control rules aim to review *ex ante* the impact of projected business combinations on the competitive structure of a given market with a view to intervening preventively with respect to transactions which would likely reduce competition among rival firms and/or foreclose competitors.

On 13 July 2022, the Ministry of Economy published an interim report on the preparatory work on the introduction of such a regime to which economic players and public authorities have participated (see link [here](#)). This document summarises the input of the participants, in particular the outcome of a public consultation launched earlier this year (read more [here](#)).

The Ministry notes that a majority of the responses to the public consultation call for the introduction of a national merger control regime.

As the Ministry points out, the crucial question regarding the future implementation of such a tool in Luxembourg will be the choice of the notification system, mandatory, voluntary or hybrid, these different models each presenting advantages and drawbacks. In addition, the thresholds triggering the jurisdiction of the competition authority will also have to be determined.

Other themes related to the specificities of Luxembourg and addressed by the report include the often cross-border activity of Luxembourg companies and the crucial role of the definition of the relevant market in the analysis made by the competition authority, the importance of the financial sector in Luxembourg, or the need to provide the authority with adequate resources and powers.

On the basis of the interim report, the Luxembourg government will prepare a bill of law which is expected to be filed with Parliament in the Spring of 2023.

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

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

We undertake no responsibility to notify any change in law or practice after the date of this newsletter.