

IN-DEPTH

Merger Control

GREECE



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Merger Control

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Introduction

Authorities

The national competition authority that deals in principle with mergers in Greece is the Hellenic Competition Commission (HCC). The HCC is an administratively and financially independent authority with a separate legal personality. The HCC consists of 10 members (including a chair, a vice chair, six rapporteurs, two regular members and their deputies),^[2] each of whom serves a five-year term, and is under the administrative and financial supervision of the Minister of Development and Investments.^[3]

The HCC is assisted in its tasks by the Directorate General for Competition (DGC).

Apart from the changes in the structure of the DGC that took place in 2021,^[4] the composition of the HCC was renewed in 2022 with the appointment of a new vice chair and rapporteurs and in 2023 with the appointment of a new chair.^[5]

In addition, the Hellenic Telecommunications and Post Commission (EETT), pursuant to the provisions of Law 4727/2020 on digital governance, electronic communications and other provisions, is competent for the enforcement of Law 3959/2011 on the protection of free competition,^[6] as amended^[7] and in force (the Competition Act), including merger control provisions, in the electronic communications sector and the postal services sector.

As regards merger control, all other economic sectors fall within the competence of the HCC.

Statutes, regulations and guidelines

The main legislation relating to merger control in Greece is the Competition Act (in particular, Articles 5 to 10). The Act mirrors, in essence, the provisions under the European Union's merger control regime.^[8] Following the amendments to the Competition Act in 2022,^[9] the HCC issued a number of merger control decisions, updating its formal merger templates, such as (1) Decision 779/2022 (Determination of the content of the commitments form in accordance with Article 6(5)(6) and Article 8(8) of Law 3959/2011), and (2) Decision 780/2022 (Determination of the specific content of the merger notification form in accordance with Articles 5 to 10 of Law 3959/2011).^[10] In essence, the HCC's merger notification form is in line with the European Union's equivalent (Form CO).

The HCC also takes into account the relevant EU principles, guidelines and case law as guidance on substantive assessment in merger control reviews.

Finally, concentrations in the media sector (television, radio, newspapers and magazines) are governed by both the Competition Act and Law 3592/2007, as amended and in force (the Media Law).

Pre-merger notification or approval

Under the current merger control regime, a mandatory notification system applies to certain categories of transactions (referred to as concentrations in the Competition Act) before their implementation, provided that a change of control on a lasting basis arises and specific jurisdictional thresholds are met.

In particular, under the Competition Act, a change of control is deemed to arise when (1) two or more previously independent undertakings (or parts thereof) merge or (2) one or more persons already controlling at least one undertaking, or one or more undertakings, acquire direct or indirect control of the whole or parts of one or more other undertakings.

In addition, the establishment of a full-function joint venture (i.e., of a joint venture performing on a lasting basis all the functions of an autonomous economic entity) is also treated as a concentration, therefore falling within the ambit of Greek merger control rules. To the extent that the establishment of a joint venture constituting a concentration has as its object or effect the coordination of the competitive behaviour of companies that remain independent, such a coordination is examined under Paragraphs 1 and 3 of Article 1 of the Competition Act (equivalent to Paragraphs 1 and 3 of Article 101 of the Treaty on the Functioning of the European Union). For this purpose, the HCC takes into account, in particular, (1) whether the parent companies retain, to a significant extent, activities in the same market or in a downstream, upstream or closely related market and (2) whether the coordination, which is the direct consequence of the establishment of the joint venture, may eliminate competition in a substantial part of the relevant market.

Concentrations shall be notified to the HCC (and not be fulfilled prior to the HCC's decision) when (1) the combined aggregate worldwide turnover of the undertakings concerned amounts to at least €150 million and (2) at least two of the undertakings concerned each realise, separately, a turnover in Greece of at least €15 million.

Guidance on turnover calculations is provided in the Competition Act (Article 10), although special rules apply to calculating the turnover of credit institutions, financial institutions and insurance companies.

Lower jurisdictional thresholds apply in the media sector. In particular, under the Media Law, a concentration must be notified to the HCC when (1) the parties involved have achieved a combined aggregate worldwide turnover of at least €50 million and (2) each one of at least two of the undertakings concerned generates a turnover in Greece of at least €5 million.

When the above thresholds are met, notification of the transaction before the HCC is compulsory and subject to the authority's prior clearance, even if it is implemented outside Greece or the undertakings involved are established outside Greece (foreign-to-foreign transactions).

Year in review

Statistics

Based on publicly available statistics on concentrations that are notified and reviewed by the HCC, between a half and two-thirds of the HCC decisions each year concern

concentrations, of which only a small number are concentrations that can create risks of distortion of competition (Phase II concentrations).^[11] The number of decisions issued by the HCC, however, differs every year (usually between 10 and 20). According to publicly available information, the total number of notifications and cases examined by the HCC between 2000 and 2017 was 373.^[12] Between 2018 and 2022, 87 merger control cases were notified before the HCC.^[13]

In 2023, 23 cases were notified to the HCC.^[14] ^[15] Of these, one was cleared following an in-depth review (Phase II),^[16] 20 cases were cleared unconditionally in Phase I and the remaining two cases are still pending before the HCC. As regards cases notified to the HCC on 2022 (which were either heard on or of which decision was issued in 2023), the HCC unconditionally cleared two Phase I cases and one Phase II case,^[17] issued a decision involving the extension of the duration of commitments undertaken under a former HCC conditional clearance decision,^[18] and imposed a fine for late filing of a notified concentration.^[19] So far in 2024, the HCC has already unconditionally cleared four out of seven totally notified concentrations.^[20]

Recent key cases

ATTICA/ANEK merger (HCC, Phase II unconditional clearance, failing firm)

In its first merger clearance decision based on the failing firm defence, the HCC unanimously approved, in August 2023, the merger by absorption of ANEK LINES SA (ANEK), one of the oldest Greek passenger shipping companies, by Attica Group (Attica), a leader in the provision of passenger and cargo ferry services in the Eastern Mediterranean Sea.^[21] The cleared transaction concerned the markets for the provision of maritime transport services for passengers, vehicles, and trucks in the Greek territory and in port pairs (Origin-Destination) in both Crete and the Adriatic and the market for the provision of maritime transport services through public service contracts.

The HCC, in clearing the transaction following a Phase II review, concluded that the concentration did not raise serious doubts as to its compatibility with the requirements for the functioning of competition in the relevant markets as it found that the three criteria of the failing firm defence as formulated by the European Commission's precedent were met. More specifically, the HCC took into account the ANEK's status (firm in distress) and accepted, despite the risk of creation or strengthening of a dominant position in the relevant markets, that: (1) ANEK would be forced to exit the market in the near future due to its financial distress; (2) there was no other alternative acquisition option for ANEK, less harmful to competition, other than the notified concentration; and (3) there was no credible interest in acquiring ANEK's assets which, therefore, would exit the market. In approving the transaction, the HCC concluded that the competitive structure in the affected markets would not be worse as a result of the merger and, as such, was not causally related to it. By adopting its above clearance Decision 827/2023, the HCC established a significant precedent.

Anedik Kritikos (HCC, imposition of fine for late notification, preliminary agreement)

On 1 May 2024, the HCC decision on the late notification of the concentration concerning the acquisition by Anedik Kritikos SA (Kritikos) of sole control over the supermarket stores of Synergazomenoi Pantopoles SA was made publicly available.^[22] Following an ex officio HCC investigation of the above acquisition, which was cleared with remedies by Decision 803/2022, the HCC found that Kritikos breached the Competition Act and imposed a fine of €30,000 on Kritikos.^[23]

Pursuant to the HCC decision, the concentration was filed 63 days after the execution of a private preliminary share transfer agreement, thus exceeding by 33 days the statutory 30-day deadline for timely submission of the notification. Kritikos argued that it had not been under an obligation to notify as the preliminary agreement was not a final legally binding agreement, due to a clause contained therein providing for the possibility of withdrawal from negotiations and early termination thereof. Kritikos further alleged that the execution of the final agreement itself was also subject to conditions. The HCC found that based on the clauses of the preliminary agreement and the clarifications provided by Kritikos, the said agreement formed, in essence, the decisive legally binding agreement between the parties whereby a permanent change of control was prescribed, and which contained the essential terms to be included in the definitive share transfer agreement to be concluded subsequently and the mechanism for implementing the transaction. On the contrary, the preliminary agreement did not contain any clauses or conditions for its annulment. In its assessment, the HCC referred to its former well-established case law,^[24] pursuant to which it had cleared notified concentrations based on a preliminary agreement before the execution of a final agreement.

In rendering its decision, the HCC took into account Kritikos' ability as a large company under Greek standards to have access to adequate legal support as an indication of its negligence to duly notify the transaction. Furthermore, it took into account:

1. the short duration of the infringement;
2. the significant economic standing of Kritikos;
3. the fact that the infringement did not have as its object or effect to circumvent merger control by the HCC, as Kritikos filed on its own initiative;
4. the fact that Kritikos did not cooperate sufficiently, as key information for the assessment of the concentration was missing from the notification and was provided with great difficulty after repeated HCC requests for information; and
5. the effect of the merger on competition which was negligible, with the exception of the identified risk in two affected markets, which was addressed through sufficient commitments.

It is worth highlighting that the amount of fine finally imposed on Kritikos is the minimum threshold provided for this type of infringement.^[25]

Intrakat/Aktor (HCC, Phase II unconditional clearance)

On 7 November 2023, following a Phase II review, the HCC unanimously approved the acquisition by Intrakat SA (Intrakat) of sole control over Aktor Technical SA (Aktor).^[26]

¹ Intrakat is a leading player in the Greek construction sector engaged in infrastructure

development, commercial and industrial construction and steel structure manufacturing, as well as telecommunications, renewable energy, waste management and real estate development projects for the public and private sectors. Aktor, the construction arm of the Ellaktor Group, is a leading international infrastructure company that is mainly active in the construction of buildings, industrial and infrastructure projects, the production of aggregates and the provision of facility and infrastructure management services.

Based on HCC's press release of 8 November 2023 on its approval decision, the HCC concluded that the concentration would not significantly impede the functioning of competition in the relevant markets within the construction sector. More specifically, it took, inter alia, into account the market shares of Intrakat, Aktor and their competitors, the level of concentration, the number and frequency of tenders, the proximity of competition between undertakings in the sector, the analysis of historical data on tenders in the period 2018–2022, and the undertakings' capacities. The HCC also found that there are no significant vertical or diagonal effects of the concentration in the other relevant markets in which the parties are active.

The merger control regime

Waiting periods and time frames

Specific deadlines apply with regard to pre-merger notifications of qualifying transactions and HCC scrutiny of the notified concentrations under the Competition Act.

In particular, pre-merger filings must be submitted to the HCC within 30 calendar days of the conclusion of the agreement or the announcement of the bid to buy or exchange, or the assumption of an obligation to acquire a controlling interest in an undertaking. According to HCC case law, this deadline may also be triggered by the execution of a preliminary document of a binding nature (e.g., memorandum of understanding).^[27] This assessment is made by the HCC on a case-by-case basis.

If a wilful failure to observe the above statutory deadline occurs, the HCC may impose on the undertakings concerned a fine of at least €30,000, but no more than 10 per cent of their aggregate group turnover.^[28]

In addition, a mandatory suspensory effect of the notified transaction is also provided for under the Competition Act. This means that the consummation of the transaction is suspended until the HCC decides to clear or prohibit the notified concentration. Derogation may be granted upon request for the reason of prevention of serious damage to one or more undertakings concerned or to a third party (full derogation).^[29]

The HCC imposed one of its highest fines to date in the Minoan Flying Dolphins case for realisation and notification failure of 21 concentrations in the domestic maritime sector (approximately €6.3 million).^[30] More recently, the HCC imposed fines amounting to €110,000 against the media company Dimeria Media Investments for failure to notify and violation of the standstill obligation.^[31] In 2021, the HCC dealt with a case involving failure to notify and gun-jumping concerning the creation of a joint venture by PPC Renewables and TERNA Energieiaki in the market of production of electricity from renewables,^[32] but

no fines were imposed because it was deemed, *inter alia*, that the required degree of fault was not met.

The duty to suspend a concentration will not prevent the implementation of a public bid to buy or exchange, or the acquisition through the stock market of a controlling interest, when such a transaction is notified to the HCC and provided that the acquirer does not exercise the voting rights attached to the securities, or does so to protect the investment value and on the basis of a derogation granted by the HCC (partial derogation).

In the case of gun-jumping (violation of suspensory effect), the HCC may impose the same sanctions as above. In addition, if the concentration is realised contrary to a prohibitive provision or decision, the HCC may order (1) the separation of the undertakings concerned, through the dissolution of the merger or the sale of the shares or assets acquired, and (2) any other measure appropriate for the dissolution of the concentration or any other restorative measures.

As regards review of the notified concentration, the HCC may examine it in one or two phases, as follows.

If the notified concentration does not meet the statutory thresholds and, therefore, does not fall within the ambit of the Competition Act, the chair of the HCC will issue a decision to that effect within one month of complete notification.

If the notified concentration, although meeting the statutory thresholds, does not raise serious doubts as to the possibility of significantly restricting competition in the relevant markets, the HCC will decide to approve the transaction within one month of notification (Phase I clearance). Under the provision introduced in 2022, it is now possible for the undertakings concerned to propose modifications to the concentration within 20 days of filing the complete notification, and the HCC may clear the transaction under Phase I if it considers that, following these modifications, relevant competition concerns have been lifted.^[33] If the notified concentration meets the statutory thresholds and raises serious doubts as to its compatibility with competition conditions in the relevant markets, the HCC's chair will decide, within one month of notification, to initiate proceedings for an in-depth review of the transaction and will inform the undertakings concerned without delay (initiation of Phase II proceedings). In this situation, the matter will be introduced before the HCC within 45 days. Upon being informed that proceedings will be initiated, the undertakings concerned may jointly proceed to adjust the concentration or suggest commitments to remove any serious doubts as to the compatibility of the transaction with the competition rules in the relevant markets and notify these to the HCC (within 20 days of the introduction of the case before the HCC).

A decision prohibiting the notified concentration must be issued within 90 days of the commencement of the Phase II proceedings. If no negative ruling has been issued upon expiry of the above deadline, the concentration will be deemed to have been approved and the HCC will have to issue an act to that effect. The HCC may attach conditions to the decision approving the merger.

The above statutory deadlines for the issuance of a decision by the HCC may be extended when (1) this is agreed by the notifying undertakings; (2) the notification is erroneous or misleading, so that the HCC is not able to assess the notified concentration; or (3) the notification form is incomplete. Regarding points (2) and (3), the HCC is obliged to request corrections to the initial notification from the notifying parties within seven business days

of the date of notification. The deadlines for the issuance of a Phase I clearance or for the institution of Phase II proceedings are deemed to commence only upon submission of complete and accurate data.

In exceptional cases, the above deadlines (except for the one-month deadline for issuance of the chair's decision archiving the notification as falling outside the Competition Act) are suspended if the undertakings concerned fail to comply with their obligation to provide information in accordance with the Competition Act, and under the condition that they are advised accordingly within two business days of the expiry of the time limit determined by the HCC for the provision of such information.

Ancillary restrictions that are directly connected to and necessary for the implementation of a concentration are also covered by HCC clearance decisions (although the HCC may require the restriction of any such ancillary restrictions in terms of scope or time, if deemed appropriate, in accordance with the relevant European Union guidelines).

Parties' ability to accelerate review procedure, tender offers and hostile transactions

The Competition Act does not provide for the notifying parties' ability to accelerate the review procedure. In practice, the HCC has a track record of meeting deadlines once notifications are deemed complete.

With regard to the possibility for partial derogation in public bids, see 'Waiting periods and time frames'.

In terms of hostile transactions, these are rarely dealt with by the HCC; however, one notable case was Vivartia/Mevgal in 2010. The transaction was cleared with conditions, by virtue of HCC Decision 515/VI/2011, but was dropped and notified again a few years later. In particular, by means of HCC Decision 598/2014, the notified concentration was cleared again but fulfilment did not take place. Control over Mevgal was later converted from sole to joint following the granting of the HCC's (third) conditional clearance.^[34] Note, however, that the HCC, in Decision 780/2022 (Determination, in accordance with Article 6, Paragraphs 5 and 6 of Law 3959/2011, of the more specific content of the notification of a concentration of businesses, according to Articles 5 to 10 of Law 3959/2011), explicitly provides that:

[t]he parties obliged to notify may submit a written request to the HCC for the acceptance of their notification, even if they do not submit all the required information, if such information is not wholly or partially at their disposal (e.g., in the case of an undertaking forming a hostile acquisition target).

Third-party access to the file and rights to challenge mergers

In general, third parties are not granted access to pending case files, including merger control cases.^[35] However, the HCC may invite third parties to act as witnesses in the hearing of a pending case if their involvement is considered to contribute to the case review. In addition, third parties may also submit a memorandum to the HCC in the context of a pending case, including merger controls, which is made available to the

notifying parties. In limited cases, the HCC may allow third parties to obtain access to the non-confidential version of parties' memoranda and records of the proceedings.

In essence, third parties obtain official knowledge of a proposed concentration by means of the publication of the notified concentration in a daily financial newspaper with national coverage, within five days of the notification of the concentration, which is also published on the HCC's website, following which they may comment or provide relevant information to the HCC within 15 days.

Resolution of authorities' competition concerns, appeals and judicial review

The HCC may clear the notified transaction subject to conditions so that the concentration may be rendered compatible with the applicable substantive test for assessing the legality of the merger (i.e., whether the notified transaction is likely to significantly restrict competition in the national market or a substantial part thereof, taking into account the characteristics of the involved products or services, particularly by creating or strengthening a dominant position). Therefore, the notifying parties may offer remedies to alleviate any concerns of the HCC, which are to be negotiated between the notifying parties and the authority. In particular, remedies are offered either within 20 days of notification of the concentration (Phase I clearance) or within 20 days of the date of introduction of the case before the HCC (Phase II clearance), and only in exceptional cases after the lapse of this period. Parties wishing to propose remedies must file the relevant form (which is available on the HCC's website), which also includes model text for divestitures and for trustee mandates.^[36]

HCC decisions may be appealed before the Athens Administrative Court of Appeals and, ultimately, the Council of State. The right to appeal lies with the notifying parties, the Greek state and any third party with a legitimate interest.

If an HCC decision is partially or wholly annulled by the administrative courts, the HCC shall re-examine the concentration in the light of existing market conditions. To this end, the notifying parties shall submit a revised or supplementary version of the notification if there is a change of conditions.

Effect of regulatory review

Concurrent reviews of mergers by more than one body are not possible under Greek merger control rules. It is the same for transactions that also touch on the electronic communications sector. For example, in an acquisition of control case (-Vodafone/CYTA),^[37] the HCC provided significant input regarding its interrelationship in terms of competence with other national authorities authorised by law to implement the Competition Act (i.e., the EETT). In this case, the HCC cleared the transaction only in respect of the media aspect of the concentration (i.e., pay TV services), whereas it decided to abstain from the assessment of the aspect of the concentration for which the EETT had already initiated a relevant review (multiple play services). In turn, the EETT cleared the transaction later in the year.^[38]

As regards limitation of suspensory effects of review and periods for completion of the review, see 'Waiting periods and time frames'.

Other strategic considerations

How to coordinate with other jurisdictions

Under the Competition Act, the HCC, being the national competition authority, is responsible for cooperation with (1) the European Commission; (2) the competition authorities of the Member States of the European Union; and (3) the competition authorities of other countries bilaterally and within the framework of international and regional cooperation networks.^[39]

In practice, the HCC cooperates closely with the competition authorities of other EU Member States, as well as with the competition authorities of third countries, through the European Competition Network and the International Competition Network. In 2023, the HCC was selected to co-chair the Agency Effectiveness Working Group within the International Competition Network, which includes more than 130 competition authorities from around the world. Over the past three years (2021–2023), the HCC has entered into bilateral memoranda of partnership and cooperation with the national competition authorities of Cyprus, Albania, North Macedonia, Armenia, Morocco, Serbia, Israel, Egypt, South Africa and Italy. The HCC also participates actively in the Organisation for Economic Co-operation and Development.

How to deal with special situations

If a party to the notified concentration faces financial distress or insolvency, the failing firm defence may be raised before the HCC as part of the merger review process. As analysed above, the HCC, by means of its Decision 827/2023, applied for the first time the failing firm defence in assessing the merger of Attica and Anek Lines by absorption of the latter.

The HCC may take into account the financial situation of the undertakings concerned when calculating the applicable fine in the case of violation of the standstill obligation.^[40] This aspect was looked into, for example, in the Dimera/Radioteleoptiki case,^[41] in which the HCC took into account for the calculation of the fine (1) the acquiring entity's low market shares in the relevant markets; (2) the limited economic capacity of the undertakings participating in the concentration; and (3) the absence of any affected horizontal and vertical markets.

With regard to minority ownership interests, the HCC takes the stance that these may also confer the possibility of control. In particular, the definition of 'control' in the Competition Act remains identical to that in the EC Merger Regulation,^[42] and the HCC closely follows the European Union paradigm. Essentially, control is associated with the possibility of exercising decisive influence over an undertaking's activities. Accordingly, a finding of acquisition of control is possible even in relation to the acquisition of a minority interest if the surrounding circumstances are such as to confer actual control in the sense of being able to block actions relating to the strategic commercial policy of an undertaking.^[43] This has been ruled by the HCC in the Folli-Follie/Duty Free Shops case, whereby, although Folli-Follie held a minority stake in the acquired entity, it was deemed to be exercising control as it was the only entity in a position to veto strategic decisions of the acquired entity.^[44] Exercise of joint control by minority shareholders was touched on by the HCC in

the GEK TERNA/Nea Odos case,^[45] in which it was stated that joint control may also occur in the case of inequality in votes:

[w]here minority shareholders have additional rights which allow them to veto decisions which are essential for the strategic commercial behaviour of the joint venture . . . The veto rights themselves may operate by means of a specific quorum required for decisions taken at the shareholders' meeting or by the board of directors to the extent that the parent companies are represented on this board.

Outlook and conclusions

There are no pending changes in merger control legislation. Following its intensive gun-jumping investigations, the HCC is currently examining an approved concentration in the wider financial and investment sector for potential failure to notify the acquisition of de facto sole control and potential violation of the standstill obligation.^[46]

Despite the continuous increase in notified concentrations, in 2023 the HCC examined transactions raising fewer competition concerns than in 2022 as it initiated in-depth investigations in only two cases. Of these, one was cleared in Phase II without remedies, and the other was approved based on the failing firm defence. In 2023, higher (notified) merger activity has been observed in the following sectors: energy, pharmaceuticals and healthcare, retail, food and beverages, and construction. The HCC also continued its long-standing practice of not blocking any notified concentrations. Apart from typical merger control clearance procedures, the HCC also dealt with other merger control issues, such as late notification and prolongation of undertaken remedies.

While sustainability remains a priority for the HCC, to date it has yet to be assessed in the context of merger control review (e.g., in terms of theories of harm, efficiencies or merger remedies). Due to the increasing trend of notifiable concentrations in the energy sector, the HCC is anticipated to delve into sustainability aspects in merger control in the years to come. Lastly, given the alignment of the HCC with the European Commission as regards standard merger notifications, it remains to be seen whether and to what extent the recent simplification of EU merger control procedures in 2023 would impact the equivalent HCC simplified procedure.

Endnotes

- 1 Marina Androulakakis is a partner, Tania Patsalia is a partner and Marina Myzithra is an associate at Bernitsas Law. [^ Back to section](#)
- 2 The number of members of the Hellenic Competition Commission (HCC) was increased from eight to 10 by means of Law 4886/2022 (Government Gazette A' 12/24.01.2022). For more details, see also HCC's updated Rules of Internal Procedure and Management (Government Gazette B' 1790/21.03.2023). [^ Back to section](#)

- 3 And is subject to parliamentary control. ^ [Back to section](#)
- 4 The main features of the reforms at the Directorate General for Competition (DGC) were the setting up of (1) interdisciplinary mixed sectoral directorates, (2) horizontal units for economic research and documentation and for forensic investigation and detection, and (3) a chief legal officer directorate. Each sectoral directorate is formed of a legal unit and an economic unit. The new structure also includes directorates that report directly to the chair of the HCC and an office of the Legal Counsel of the State. See, also, HCC Decision 749/2021 (Government Gazette B' 4757/14.10.2021) as amended and consolidated by HCC Decision 788/2022 (Government Gazette B' 4905/04.08.2023). ^ [Back to section](#)
- 5 With a five-year term as of early January 2024. ^ [Back to section](#)
- 6 Government Gazette A' 93/20.04.2011 (Competition Act). ^ [Back to section](#)
- 7 The latest amendment to the Competition Act took place by means of Law 4886/2022.- ^ [Back to section](#)
- 8 See Council Regulation (EC) No. 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation), as amended and in force. ^ [Back to section](#)
- 9 Amendments were also made to the provisions on merger control, including by enabling merger parties to offer remedies during the Phase I review period and providing a filing fee of €3,000 for the initiation of the Phase II merger review. ^ [Back to section](#)
- 10 Among the few changes in its merger template, the HCC is now inviting merging parties to engage voluntarily in pre-notification contacts with the authority regarding the extent and type of information on which they plan to base their notification. ^ [Back to section](#)
- 11 HCC Newsletter Issue 6, March 2023, p. 3. ^ [Back to section](#)
- 12 Organisation for Economic Co-operation and Development, Peer Reviews of Competition Law and Policy: Greece, 2018, p. 48 (<https://www.oecd.org/competition/oecd-peer-reviews-of-competition-law-and-policy-greece-2018.htm>(accessed 2 June 2023)). ^ [Back to section](#)
- 13 HCC Newsletter Issue 6, March 2023, p. 4. ^ [Back to section](#)
- 14 As per publicly available information in HCC's website. ^ [Back to section](#)
- 15 As of date of drafting of this article. ^ [Back to section](#)
- 16 HCC Decision 830/2023 (decision not yet published). ^ [Back to section](#)

- 17** See HCC Phase I Decisions 811/2023 (decision not yet published) and 806/2023 and HCC Phase II Decision 827/2023, analysed below (decision not yet published). [^ Back to section](#)
- 18** HCC Decision 822/2023 (decision not yet published). [^ Back to section](#)
- 19** See HCC Decision 823/2023, analysed below. [^ Back to section](#)
- 20** As of date of drafting of this article. [^ Back to section](#)
- 21** HCC Decision 827/2023 (decision not yet published). [^ Back to section](#)
- 22** HCC Decision 823/2023. [^ Back to section](#)
- 23** Competition Act, Article 6(1). [^ Back to section](#)
- 24** See, indicatively, HCC Decisions 509/VI/2010, 440/V/2009, 406/V/2008, 417/V/2008, 235/III/2003, and 209/III/2002. [^ Back to section](#)
- 25** Under Article 6(4) of the Competition Act: 'The Competition Commission shall impose on each person who is at fault for failing to notify in accordance with par. 3 of the present article, a fine of at least EUR thirty thousand (30,000) capped at ten per cent (10%) of aggregate turnover, as defined in Article 10. In fixing the amount of the fine, the economic power of the parties to the concentration, the number of the affected markets and the level of competition in those, as well as the estimated impact of the concentration on competition shall be taken into consideration.' The application of the provision is subject, therefore, to the cumulative fulfilment of three conditions, namely: (1) the existence of an obligation to notify the concentration as per Article 6(1) of the Competition Act; (2) the infringement of the obligation; and (3) the infringement being attributed to the fault of the notifying person. [^ Back to section](#)
- 26** HCC Decision 830/2023 (decision not yet published). [^ Back to section](#)
- 27** HCC Decisions 383/V/2008, 632/2016, 633/2016, 803/2022 and 752/2021. [^ Back to section](#)
- 28** HCC Decision 823/2023, analysed above. [^ Back to section](#)
- 29** See HCC Decision 804/2022. [^ Back to section](#)
- 30** HCC Decision 210/III/2002. [^ Back to section](#)
- 31** HCC Decisions 652/2017 and 655/2018. [^ Back to section](#)
- 32** HCC Decision 729/2021. [^ Back to section](#)

- 33** The introduction of remedies during the Phase I merger review period was carried out by virtue of Law 4886/2022 and is in line with the European Union's merger control procedure. ^ [Back to section](#)
- 34** HCC Decision 650/2017. ^ [Back to section](#)
- 35** HCC, Rules of Internal Procedure and Management, Article 15(9). ^ [Back to section](#)
- 36** HCC Decision 779/2022. ^ [Back to section](#)
- 37** HCC Decision 656/2018. ^ [Back to section](#)
- 38** Hellenic Telecommunications and Post Commission, Decision 857/7 of 28 June 2018.-
^ [Back to section](#)
- 39** Competition Act (as amended and in force), Article 28. ^ [Back to section](#)
- 40** Competition Act, Article 9. Also see HCC Decision 823/2023 wherein the HCC took into account the financial situation of KRITIKOS (late notification case). ^ [Back to section](#)
- 41** HCC Decision 652/2017. ^ [Back to section](#)
- 42** See footnote 8. ^ [Back to section](#)
- 43** HCC Decision 427/V/2009. ^ [Back to section](#)
- 44** HCC Decision 308/V/2006. See, also, HCC Decision 714/2020. ^ [Back to section](#)
- 45** HCC Decision 673/2018. ^ [Back to section](#)
- 46** HCC press release of 26 July 2023. ^ [Back to section](#)

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