

Kluwer Competition Law Blog

Main Developments in Competition Law and Policy in 2023 – Western Balkans

Dragan Gajin (Dokleštic Repic & Gajin) · Thursday, January 25th, 2024

In this post, I will provide a brief overview of the main 2023 competition law and policy developments in five Western Balkan countries: Serbia, Montenegro, Bosnia and Herzegovina, North Macedonia, and Albania. What connects these jurisdictions is that they are all outside the EU and are at the same time heavily influenced by EU law and practice in the area of competition.

In this post, I will focus on merger control and antitrust developments in these jurisdictions. Rather than being a comprehensive overview of the year behind, the purpose of the post is to inform you about the most important development stemming from these countries.

Serbia

Merger control: A Phase II probe in the coffee sector, one new gun-jumping probe

Let's start our journey through the Western Balkans with Serbia.

Last year as well, the enforcement activities of the Serbian competition authority focused on merger control. This is not due to a policy choice of the Serbian watchdog but due to the filing thresholds laid down in the Serbian legislation. Specifically, [a merger filing obligation in Serbia can be triggered based on the acquirer's turnover alone](#), and even if the target does not have any activity in Serbia whatsoever.

At this point, we do not know exactly how many transactions were notified in Serbia in 2023. Based on the data from previous years, one can estimate that number to around 150. In any event, out of all those filings, only one led to a Phase II probe – a proposed concentration in the Serbian coffee industry.

Concretely, in November 2023, the Serbian competition authority started an in-depth probe of a planned combination between two largest Serbian producers of coffee – the Atlantic Group and Strauss Adriatic, respectively. The planned concentration would consist in the Atlantic Group acquiring sole control over Strauss Adriatic. The product market of most concern to the watchdog is that of ground coffee, in which the combined share of the parties is allegedly 60-70%.

What is further interesting is that [in 2021 the Serbian competition authority started an antitrust probe against the parties to the planned concentration \(the Atlantic Group and Strauss Adriatic\)](#),

probing whether they had coordinated their business strategies concerning the wholesale of ground coffee on the Serbian market. From what is publicly available, this antitrust investigation is still pending. In any event, both the Phase II probe and the antitrust investigation are something to pay attention to in 2024.

Finally, when it comes to merger policy, an inevitable issue is that of gun-jumping. If the parties do not notify their merger in Serbia, what consequences can they expect?

Naturally, we do not know how many transactions last year were supposed to be notified in Serbia but weren't. What we do know, however, is that the Serbian competition authority launched only one gun-jumping probe in 2023. The probe is about the failure of a Serbian company active in the hospitality sector to notify the acquisition of a hotel in Serbia. There were no other new gun-jumping probes started last year. [Is then gun-jumping enforcement in Serbia indeed just a paper tiger?](#)

Antitrust: Two new investigations

In the area of antitrust, there were no ground-breaking cases in 2023. To be exact, the Serbian competition authority started two new investigations last year – one was [a resale price maintenance \(RPM\) case](#) concerning the sale of boilers, while the other concerned [alleged bid rigging](#) in the procurement of cleaning products.

Of the two, the RPM case is more interesting. In it, the Serbian competition authority is investigating a local Vaillant company. The watchdog suspects that Vaillant had been fixing its resale prices in Serbia, since all its authorized distributors had identical prices in the period observed by the authority. At the start of the investigation, the regulator also carried out a dawn raid at the investigated company's premises.

Sector inquiries: Cement sector and food delivery platforms examined

During 2023, the Serbian competition authority completed two new sector inquiries.

To start with, the watchdog [published](#) a report on its inquiry into the Serbian cement and RMX markets. The report covers the period 2018-2021 and analyzes the main trends on these two markets during the examined period. This is not the first time that the Serbian competition authority has examined the cement and RMX markets, so more activity about these markets may be in the store.

The Serbian authority also [examined](#) the market for food delivery apps. Its inquiry covered the period 2020-2021 and looked into the relationships between the main stakeholders in the market. As a reminder, in 2022, the watchdog started an antitrust investigation against Glovo, a leading food delivery app in Serbia, for alleged abuse of dominance.

Montenegro

Merger control: A slight rise in the number of merger filings

Moving to Montenegro, the main focus of the Montenegrin competition authority in 2023 was also on merger control. In total, during last year the Montenegrin watchdog cleared 72 transactions in total (up from 65 concentration clearances in 2022). As in Serbia, such a large number of merger filings in Montenegro comes to no surprise, [considering Montenegro's expansive merger control thresholds](#).

From what is publicly available, all the Montenegrin competition authority cleared all examined transactions in a summary (Phase I) procedure.

Antitrust: Travel agencies in the spotlight

In the area of antitrust, in 2023 the Montenegrin authority's focus was on tourist agencies, as it investigated them in two separate probes.

First, the Montenegrin authority in May started [investigating](#) three Montenegrin travel agencies which submitted almost identical bids for the service of reserving hotel accommodation in Montenegro and abroad. The procuring entity in this case was the Montenegrin parliament. From what is publicly available, this case is still pending.

In another [case](#), the Montenegrin watchdog was investigating the country's Association of Travel Agencies, on suspicion that its members had engaged in cartel-like price fixing. After conducting dawn raids, the authority obtained the Association's pricelist concerning services provided by Montenegrin travel agencies. For instance, the pricelist specifies how much a travel agency is supposed to charge for a flight or hotel reservation. This investigation was concluded in December 2023, [with an infringement decision](#).

Remaining in the antitrust sphere, the Montenegrin competition authority also issued two [decisions](#) on individual exemption of prohibition. As a reminder, Montenegro still has a system of individual exemption of restrictive agreements based on prior notification to the competition authority. Both exemptions granted in 2023 were related to the tobacco industry.

Bosnia and Herzegovina

Merger control: Less cases than in the neighbourhood

Compared to its Western Balkan peers, Bosnia and Herzegovina does not have that many merger cases on its table. As an illustration, in 2022 there were 19 merger notifications in total submitted to the Bosnian competition authority, while in 2023 the number is probably similar (we will know for sure once the authority publishes its annual report for the previous year).

In any event, based on what is publicly available, all merger cases dealt with by the Bosnian competition authority in 2023 were resolved in a Phase I procedure.

Since the Bosnian filing thresholds remain the same as we head into the new year, and, apart from the joint control context, can be triggered only when the target is present in Bosnia and Herzegovina, we can expect the current trends to continue and the number of merger cases in 2024 to revolve around the usual number.

Antitrust: Collusion between public broadcasters and a cryptocurrency case

In the area of antitrust, as is common for Bosnia and Herzegovina, there were quite a few new cases initiated. We are used to that, due to Bosnia's quasi-private system of antitrust enforcement. That said, most of the cases, when started, either end by a finding of no infringement or in another way do not result in anything important. Nevertheless, there were a couple of interesting antitrust decisions in Bosnia and Herzegovina last year.

In the first case, the Bosnian watchdog found that three public broadcasters in the country – Radiotelevizija Bosne i Hercegovine, Radiotelevizija Federacije Bosne i Hercegovine, and Radiotelevizija Republike Srpske, had abused their collective dominant position on the market for the sale of TV advertising services. The authority found the three undertakings had done so through the adoption of their joint pricelist of advertising and sponsorship services. The regulator fined all three companies, as well as another company, Media Pool doo, each for their involvement in the infringement.

In another case, the Bosnian competition authority found that Raiffeisen Bank's Bosnian subsidiary had infringed competition related to the crypto-currency market, by preventing transactions related to trading in digital asset trading through an account opened with the bank. The authority qualified such acts of the bank as the conclusion of a restrictive agreement. It did not explain, however, with whom the bank concluded such restrictive agreement, so the whole case seems shaky from a competition law perspective.

Finally, Bosnia and Herzegovina also have a system of individual exemptions based on prior notification to the competition authority, to mention one interesting case from that sphere. In 2023, the Bosnian competition authority agreed to extend the individual exemption from prohibition for a set of agreements in the brewing industry. The exempted agreements were entered by and between Bavaria N.V. Netherlands of one part, and Molson Coors d.o.o. Banja Luka (Bosnia and Herzegovina), Zagrebačka pivovara d.o.o. Zagreb (Croatia), Apatinska pivara Apatin d.o.o. Apatin (Serbia) and Trebjesa d.o.o. Nikšić (Montenegro) of the other part. The exemption pertains to an exclusive distribution agreement and a licensing agreement between these parties.

North Macedonia: Merger control continues to dominate the scene

Next in line – North Macedonia.

In 2022, there were 104 merger notifications in North Macedonia and in 2023 that number jumped to as many as 122. In other words, during each month of 2023, the North Macedonian competition authority on average received 10 new merger filings.

As in Serbia and Montenegro, this high number of merger filings in North Macedonia is not surprising, considering [North Macedonia's all-inclusive merger filing thresholds](#). And since there are no immediate plans to change these thresholds, we can expect merger control to dominate the enforcement activities of the North Macedonian competition authority in 2024, too.

As for antitrust, the North Macedonian competition authority did not report a single new case in 2023. It remains to be seen whether the regulator will step up its enforcement in this sphere in 2024.

Albania

Finally, this overview of the main developments in the Western Balkans for the first time includes Albania, a country with a very active competition authority.

Merger control: Competition authority shows teeth in enforcement

Albania, too, has [merger filing thresholds which can be triggered even when the target is not at all present on the local market](#). Naturally, this leads to a relatively high number of merger notifications in the country – in 2023, 50 transactions were notified to the Albanian competition authority. And, based on what is publicly available, the authority dealt with all of them in a Phase I procedure. There is no reason why this trend would not continue in 2024.

Also related to merger control, the Albanian competition authority in 2023 showed that it is ready to enforce merger control rules when a party violates them.

To start with, the authority issued a [fine](#) to an Albanian company active in the gasoline market. The fine was for the company's failure to timely notify the acquisition of another Albanian company. Although it fined the offender, the authority at the same time cleared the examined concentration, as it did not pose a threat to competition on the Albanian market.

In 2023, the Albanian competition watchdog issued fines in the merger control context in two other instances.

First, it [fined](#) a local company for submitting incomplete and incorrect data in merger control proceedings. The contentious data related to the date of conclusion of the transaction agreement (that is relevant in Albania since in this jurisdiction there is a deadline for submitting a merger notification following the execution of the transaction agreement). In addition, the Albanian authority [fined](#) three local companies for their late notification of the acquisition of joint control over a target company. The maximum fine for these kinds of violations is 1% of the undertaking's annual turnover.

Antitrust: Price-fixing by driving schools and a new bid-rigging probe

While merger control dominated the work of the Albanian competition authority in 2023, the watchdog did also use some of its resources for antitrust enforcement.

For instance, last year the Albanian competition authority **established** the existence of a price-fixing arrangement in the field of driving schools. Specifically, the NCA found that an agreement between the General Directorate of Road Transport Services, two associations of driving schools, and the General Directorate of Taxes had as its object the fixing of the fee for preparation for taking a driver's license exam.

In another case, the Albanian authority is **examining** potential bid rigging. Specifically, the watchdog is examining two local companies for allegedly using a bidding scheme by agreeing that one of the competitors would make a bid unacceptable to the contracting authority. The investigation, which is pending, will cover the period between September 2022 and October 2023, when the suspected bid-rigging scheme was allegedly in operation.

Outlook

As can be seen from this short overview, apart from, to an extent, Bosnia and Herzegovina, the enforcement activities of all Western Balkan competition authorities focus on merger control; so 2024 will likely be marked by that area, too. That said, as can also be seen from this overview, although to a lesser extent, the authorities are also active in pursuing antitrust offences, so 2024 might hold in the store something interesting for us in that sphere as well.

To make sure you do not miss out on regular updates from the Kluwer Competition Law Blog, please subscribe [here](#).

Kluwer Competition Law

The **2022 Future Ready Lawyer survey** showed that 79% of lawyers are coping with increased volume & complexity of information. Kluwer Competition Law enables you to make more informed decisions, more quickly from every preferred location. Are you, as a competition lawyer, ready for the future?

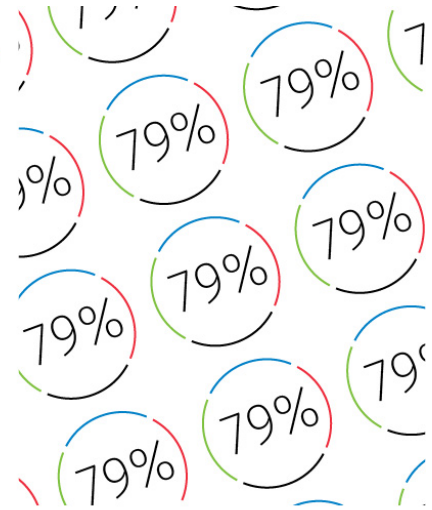
Learn how **Kluwer Competition Law** can support you.

79% of the lawyers experience significant impact on their work as they are coping with increased volume & complexity of information.

Discover how Kluwer Competition Law can help you.
Speed, Accuracy & Superior advice all in one.



2022 SURVEY REPORT
The Wolters Kluwer Future Ready Lawyer
Leading change



This entry was posted on Thursday, January 25th, 2024 at 9:00 am and is filed under [Competition Law 2023](#), [Western Balkans](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. You can leave a response, or [trackback](#) from your own site.