



**In this issue:**

**New amendments to Competition Law, impacting the authorization of economic concentrations, investments made in Romania, and investigations conducted by the Competition Council**

Law no. 71/2024 amending Competition Law will come into force on April 15, 2024 and brings significant changes in key areas of the Competition Law, such as the structure of the Competition Council's Plenum, the procedure for appointing Plenum members, the competencies of the Competition Council's Plenum.

Law no. 21/1996 on competition ("Competition Law") has recently been amended by the Law no. 71/2024. Law no. 71/2024 was adopted on March 28, 2024, and will come into force on April 15, 2024

## 1. Amendments regarding the Competition Council's Plenum

The number of members of the Plenum increases from 7 (seven) presently to 9 (nine) as of the entry into force of Law 71/2024. There is also a change regarding their appointment procedure.

Contrary to previous regulations, where the appointment of Plenum members was the prerogative of the President of Romania, upon the recommendation of the Consultative College of the Competition Council, and the Government was responsible for endorsing candidates after their hearings in the specialized committees of Parliament, Law no. 71/2024 introduces substantial changes in this regard, such as the appointment of the Plenum members will be carried out by the Parliament, through a vote of the majority of present deputies and senators, convened in a joint session, with candidates being proposed as follows:

- Three members will be proposed by the parliamentary groups from the Senate,
- Four members will be proposed by the parliamentary groups from the Chamber of Deputies,
- One vice-president will be proposed by the President of Romania, and
- One vice-president will be proposed by the Prime Minister.

Regarding the conditions for members of the Competition Council's Plenum, the following changes are also relevant:

- it is no longer necessary for them to demonstrate high professional competence in the field of competition, as the previous requirement has been eliminated.
- additionally, to be appointed, the President of the Plenum no longer needs to have previously held a leadership position with extensive responsibilities, where they demonstrated professional and managerial competence.

The duration of the members' mandate remains the same, namely 5 years, but the possibility of renewal regardless of the number of mandates is eliminated, introducing the fact that renewal is allowed only once.

Regarding the current composition of the Competition Council's Plenum, there are also transitional provisions provided by Law no. 71/2024, namely that the current members will continue their activity until the expiry date of the mandate for which they were appointed. Additionally, in the case of vacant positions, Parliament will appoint new members for a period equal to the remaining mandate of the members in office, within 60 days from the date of entry into force of Law No. 71/2024.

## 2. Amendments regarding the procedure for investigating anti-competitive practices

According to Law No. 71/2024, the Plenum of the Competition Council will have the competence to **"adopt investigation reports, as well as the correlative measures, taking into account the concurring or divergent opinions of the members."** Until now, investigation reports were drafted by the investigation team and examined by the Plenum (sometimes even in a contradictory framework during hearings), considering the objections raised by the parties under investigation. Following the hearing procedure, the Plenum of the Competition Council would review the evidence regarding the alleged anti-competitive conduct and determine whether the investigated parties engaged in anti-competitive conduct or not.

To have a complete understanding of the impact of such changes regarding the conclusion of investigations, we await the issuance, as mentioned in Article III. of Law No. 71/2024, of the regulations and instructions of the Competition Council necessary for the implementation of the law, which should be issued within 45 days from the date of entry into force of Law No. 71/2024.

## 3. Changes Regarding the Authorization of Investments Made in Romania

The Plenum of the Competition Council's responsibility to authorize foreign direct investments is eliminated. However, considering that the Competition Council continues to provide the secretariat of

the Commission for the Examination of Foreign Investments and issues decisions authorizing foreign investments, based on Emergency Ordinance No. 46/2022 on the implementation measures of Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments in the European Union, we await the issuance, as mentioned in Article III of Law No. 71/2024, of the regulations and instructions of the Competition Council necessary for the implementation of the law to understand the process of approval by the Competition Council.

[For further questions regarding the aspects mentioned in this alert, please contact us.](#)



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