

# **Gun-jumping and EU merger control**

## **Abstract**

This thesis deals with the issue of gun-jumping under the EU Merger Regulation. On the EU level of competition law, gun-jumping is an infringement of the obligation to notify a concentration and the obligation not to implement such concentration before receiving Commission's clearance. Gun-jumping was, for a long time, a marginal and undeveloped topic within the context of EU competition law. However, over the years, the Commission has significantly tightened its grip over the undertakings that do not respect the basic principles of EU merger control procedures and imposed heavy penalties for such infringements. Over the last few years, gun-jumping has thus become one of the leading issues within the EU competition law.

This thesis sets the objective to examine the evolution of the gun-jumping enforcement on the EU level. Furthermore, it aims to identify the various types of gun-jumping conduct from the undertakings' point of view and their subsequent assessment by the Commission. Finally, the thesis also seeks to identify the problematic and unclear areas of gun-jumping and the possible clarifications to be made by the Commission. To achieve these objectives, the author researches the academic literature on gun-jumping and examines the decision-making practice of the Commission and the CJEU.

The thesis is structured into four chapters. First chapter focuses on the legal context of gun-jumping on the EU level and introduces the application and interpretation scope of the relevant EUMR provisions. The second chapter then analyzes in detail the various types of gun-jumping actions as identified in the Commission's decisions and the case-law of the CJEU. Third chapter deals with the exemptions from the general prohibition of gun-jumping and examines multi-step transaction schemes and their relation to gun-jumping. The fourth chapter then identifies the consequences of gun-jumping, its relation to Article 101 TFEU and analyzes the evolution of the sanctioning policy. Finally, the author's findings are synthesised in the conclusion by providing answers to the research questions.

**Keywords: gun-jumping, EU merger control, EU competition law**