

Portuguese Competition Authority fines a hospital company for gun-jumping

The Portuguese Competition Authority (AdC) **fined** a hospital company in the total amount of **EUR 155,000.00** for acquiring **sole control** of other hospital company **without prior notification of the acquisition** and, consequently, without obtaining approval from the antitrust entity (**gun-jumping**).

The merger should have been previously notified to the AdC. Due to the merger, the company created or reinforced a **50% or greater share** in the market of hospital health care by private units in a certain region.

The opening of this investigation took place in September 2019 and, during the proceedings, the undertaking submitted to the AdC a settlement proposal, having confessed the facts and assumed responsibility for their practice.

After the detection, by the AdC, of the infringement, the company proceeded to **voluntarily notify** the merger, which was cleared in September 2019. Notwithstanding the high market share created by the merger, the AdC did not oppose the merger. This was justified by the impending **insolvency** of the acquired company.

This is the **third time** since 2014 that the AdC imposes a fine on companies for gun-jumping. It is also the **first case** involving failure to notify by the **market share threshold**.

Given that the sanction involves a company in the health sector, the AdC accepted the payment of the fine in several instalments, at a time when the country faces a pandemic.

AdC fined a hospital company in the total amount of EUR 155,000.00 for gun jumping.

Notwithstanding the high market share created by the merger, the AdC did not oppose the merger given the impending insolvency of the acquired company.

This is the first time that the AdC imposes a fine for gun-jumping, involving the market share threshold.

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