

## **The GVH cannot examine the KESMA merger**

**The Fővárosi Törvényszék (Budapest High Court) confirmed in its decision adopted in December 2019 that the GVH did not have competence to examine the KESMA merger from a competition law perspective. Furthermore, the Court obliged the Authority to adopt its decision in a different form in the framework of a new proceeding.**

On 28 November 2018 the Közép-Európai Sajtó és Média Alapítvány notified the GVH that it would acquire direct and sole acquisition over 100% of the shares of Opus Press Zrt., Echo Hungária TV Televíziós, Kommunikációs és Szolgáltató Zrt., New Wave Media Group Kommunikációs és Szolgáltató Kft. and Magyar Idők Kiadó Kft. In the public interest, the Government declared the transaction to be a merger of national strategic importance in its Government Decree on 5 December 2018. Consequently, the GVH issued an official certificate on 28 November 2018 due to a lack of competence to proceed.

In the litigation initiated after this date, the Budapest High Court established in its decision No 105.K.700.376/2019/7 that the official certificate should not have been issued in the given case. Consequently, the Court obliged the Authority to conduct a new concentration notification proceeding, the conclusion of which should conform, in terms of both form and content, to its established legal position. Furthermore, the Budapest High Court stated that a concentration that is declared as being of national strategic importance by a Government Decree does not fall within the scope of the Hungarian Competition Act. Accordingly, it is irrelevant that the concentration has already been notified – the provisions of the Government Decree will still be applicable to it. In light of the above, the GVH rejected the notification of the concentration due to a lack of competence.

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