

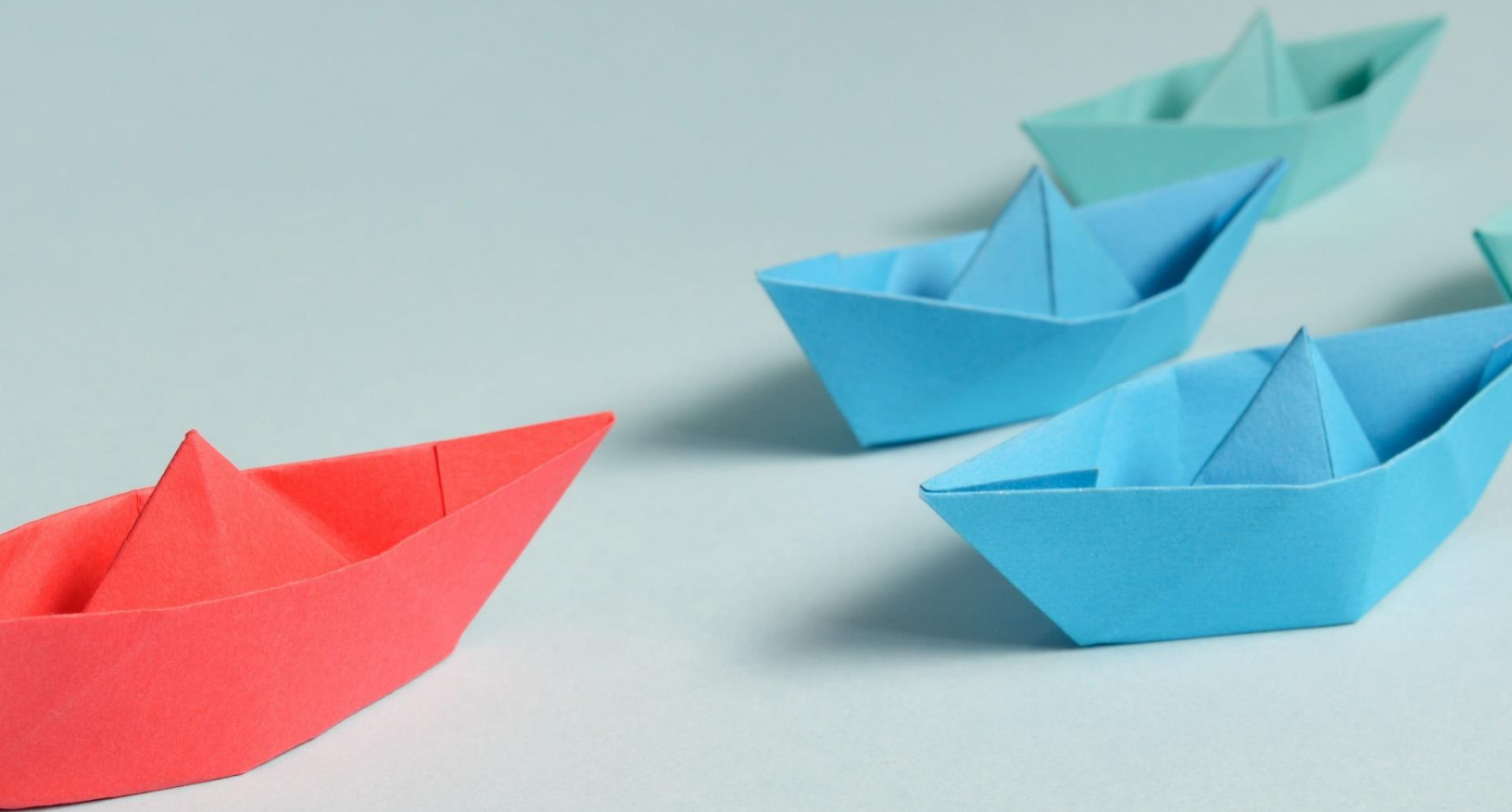


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Draft Law “On amending Law no. 9121  
‘On the Protection of Competition’”

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# Newsletter



## Draft Law “On amending Law no. 9121 dated 28.07.2003 ‘On the Protection of Competition’”

On November 13, 2023, the Albanian Competition Authority submitted for public consultation the draft law ‘On amending Law no. 9121 dated 28.07.2003 “On the Protection of Competition”’ (the **Draft Law**).

In the framework of further harmonization with the EU *acquis*, the Draft Law aims to establish specific regulations governing the behavior of both public and private enterprises, ensuring open market access, and fostering economic competition.

The Draft Law introduces the following:

**Concerted practice** - is a type of coordination among undertakings wherein they engage in collaborative actions without formal agreement, consciously replacing competitive risks with practical cooperation. The notion of *concerted practice* involves not only the coordination among participating undertakings but also encompasses subsequent market conduct, establishing a cause-and-effect relationship between the two.

**Collusive bidding agreement** - refers to an arrangement where enterprises refrain from competitive practices in public procurement by secretly conspiring to establish predetermined prices or compromise on product quality. This collusion can take various forms, such as enterprises coordinating their bids in public procurements through one of the following methods:

- **Covered bid:** This occurs when competitors collude to submit intentionally higher offers than the predetermined winning bid.

- **Contained bid:** In this scenario, competitors collaborate by abstaining from submitting bids altogether or by withdrawing previously submitted bids.
- **Rotating bid:** This involves competitors entering into an agreement to bid on a project, predeterminedly deciding that the winner will be selected in a specific order, rotating among them.
- **Market segmentation:** This phenomenon arises when competitors divide the market into segments and agree not to compete for specific consumer segments or designated geographical areas.

**Invitation to prohibited agreement** – explains the engagement of the enterprises in practices that invite or encourage another enterprise to participate in agreements, or concerted practices with the purpose of obstructing, restricting, or distorting competition.

Moreover, the Draft Law introduces provisions to intensify scrutiny of business concentrations, specifically targeting the so-called ‘killer acquisitions,’ with the goal of fostering a competitive environment.

Additionally, in the interest of ensuring free and effective competition, the Draft Law proposes relevant changes to the appointment procedure for members of the Competition Authority Commission.

Furthermore, several amendments are proposed in the appeal procedure, including the extension of the timeframe for interested parties to approach the Administrative Court of First Instance from the current 30 days to 45 days after the exhaustion of administrative avenues.

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**WTR1000 2023:** Top Ranked in Trademarks

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