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Article 24 of the French Simplification Law: merger control refocused, but unfinished

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Abstract: *Article 24 of Law No. 2026-403 of 26 May 2026 on the Simplification of Economic Life raises the thresholds above which a merger must be notified to the French Competition Authority. These thresholds had not changed since 2004. Since 1 September 2026, a transaction only has to be notified if the companies involved together generate more than €250 million in worldwide turnover, and if at least two of them each generate more than €80 million in France. This reform was necessary, because inflation had extended merger control to many transactions that posed no risk to competition. However, it leaves unanswered an older question, namely how to control transactions that remain below the thresholds but may still harm competition.*

Since 1 September 2026, many companies can buy another company without asking for the approval of the French Competition Authority ("the Authority"). This change results from Article 24 of Law No. 2026-403 of 26 May 2026 on the Simplification of Economic Life[1], which raises the merger notification thresholds for the first time since 2004[2].

A merger (in French law, an "opération de concentration") mainly refers to the acquisition of one company by another or to the combination of two companies. When these transactions are significant, they must be notified, which means that they must be submitted to the Authority before they are carried out. The Authority then checks that they will not reduce competition to the detriment of consumers. To determine whether a transaction must be notified, Article L. 430-2 of the French Commercial Code sets turnover thresholds[3]. When the companies involved exceed these thresholds, notification is mandatory.

Before the reform, the thresholds had not changed since 2004 for the general regime, nor since 2008 for the retail sector and the French overseas territories[4]. Yet, during the

[1] L. no. 2026-403 of 26 May 2026 de simplification de la vie économique, art. 24; JORF no. 0122, 27 May 2026.
[2] E. Donval, « Le rehaussement des seuils de contrôle des concentrations : simplifier pour mieux contrôler ? », *JCP E* 2026, 1236, para. 1.
[3] C. com., art. L. 430-2.
[4] Aut. conc., press release of 16 Apr. 2026, « Adoption du projet de loi de simplification de la vie économique : l'Autorité de la concurrence se félicite du rehaussement des seuils de contrôle des concentrations ».

same period, prices rose by almost 40% and French gross domestic product (GDP), measured in current euros, by 65%[5]. As company turnover followed this increase, more and more transactions exceeded the thresholds without being any more harmful to competition. The number of notified transactions thus rose from 213 in 2010 to 339 in 2025, an increase of 59%[6]. In July 2024, the Authority had already adopted a "pact of trust" to speed up the review of simple cases[7], but only a law could reduce the number of transactions to be notified.

Although it was presented as a simple technical update, the measure followed a longer path than expected. It appeared in Article 8 of the bill filed with the Senate in April 2024[8]. After the National Assembly unexpectedly rejected this provision on 13 June 2025, it was reinstated on 20 January 2026 by a joint committee made up of members of both chambers of Parliament[9]. Parliament finally adopted it on 14 and 15 April 2026[10]. The Constitutional Council then struck down several articles of the law, but did not call into question the provision on thresholds[11].

Article 24 replaces four amounts in Article L. 430-2 of the French Commercial Code and applies to transactions notified from 1 September 2026[12]. The thresholds specific to the French overseas territories remain unchanged.

The reform therefore lightens merger control before transactions are carried out. However, one question remains open. What happens to harmful transactions that now fall below the thresholds? While Article 24 brings a necessary simplification, which refocuses control on significant transactions (I), it remains silent on transactions below the thresholds, even though this question already arose before the reform (II).

I. A necessary simplification: control refocused on significant transactions

A. Thresholds that had become outdated

Turnover was chosen as the criterion because it is simple and objective. Each company can

[5] *Ibid.*
[6] E. Donval, *op. cit.*, para. 6; Aut. conc., press release of 16 Apr. 2026, *op. cit.*
[7] D. Tayar, S. Haddou and C. Gautier, « Seuils : Le Parlement français adopte la loi de simplification économique qui relève les seuils de notification des concentrations applicables en France à compter du 1er septembre 2026 », 26 May 2026, *Concurrences* no. 9-2026, art. no. 137415.
[8] E. Donval, *op. cit.*, para. 1; G. Aubron and M. Duvacher, « Le contrôle des concentrations en France à la croisée des chemins : entre relèvement des seuils de notification et émergence d'un pouvoir d'évocation », *RLC* 2026, no. 162.
[9] S. Nicinski and P. Idoux, « Le relèvement des seuils de contrôle des concentrations ne préjuge pas de l'avenir du contrôle sous les seuils », *AJDA* 2026, p. 1309; E. Donval, *op. cit.*, para. 1; joint committee report, National Assembly no. 2357 and Senate no. 286 (2025-2026), 20 Jan. 2026.
[10] E. Donval, *op. cit.*, para. 1; Aut. conc., press release of 16 Apr. 2026, *op. cit.*
[11] Cons. const., 21 May 2026, no. 2026-903 DC, *Loi de simplification de la vie économique*, ECLI:FR:CC:2026:2026.903.DC; S. Nicinski and P. Idoux, *op. cit.*
[12] L. no. 2026-403 of 26 May 2026, *op. cit.*, art. 24, II; Aut. conc., FAQ of 24 June 2026, « Modalités d'application de l'article 24 de la loi n° 2026-403 de simplification de la vie économique portant relèvement des seuils de notification », question 1.

therefore calculate for itself whether it must notify its transaction, without waiting for the Authority's opinion. This system comes from the Law of 15 May 2001 on New Economic Regulations, known as the "NRE Law", which made notification mandatory[13]. The thresholds were then set at €150 million for the worldwide turnover of all the companies involved and at €15 million in France for at least two of them. This second threshold was raised to €50 million in 2004[14].

This criterion nevertheless has a weakness, since it does not adjust by itself to changes in the economy. As a result, when thresholds remain fixed while prices rise, they actually fall in real terms. Some companies therefore had to notify their transactions "not because of any real growth in their business, but solely because of inflation"[15], and control expanded, year after year, to increasingly modest transactions.

Yet the vast majority of these transactions raised no concerns. Of the 3,229 decisions issued by the Authority since 2009, 96.6% were unconditional clearances, and only two transactions were prohibited[16]. More than 90% of notified transactions fell under the simplified procedure[17], which is reserved for straightforward cases. The Authority reviews these cases in "Phase I", which in principle lasts twenty-five working days, while "Phase II", a longer and more in-depth review, is reserved for the most sensitive transactions. Merger control was therefore not useless, but it applied to a scope that had become "excessively broad in light of its objective"[18].

The reform can thus be read in two ways. First, it lightens the burden on companies, since a notification has a cost in fees for lawyers, sometimes economists, and in time spent by internal teams[19]. According to the Authority, if the new thresholds had applied between 2018 and 2022, around 800 companies, many of them small and medium-sized enterprises (SMEs), would not have had to notify their transaction[20]. Second, the reform allows the Authority to use its resources more efficiently. With fewer simple cases to handle, it will be able to focus on "the most problematic mergers, the control of killer acquisitions and large-scale transactions referred to the Authority by the European Commission"[21]. For some authors, this second logic was in fact the main driver of the reform, whose aim is not to weaken control but to concentrate it on risky transactions[22].

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13 L. no. 2001-420 of 15 May 2001 relative aux nouvelles régulations économiques; G. Aubron and M. Duvacher, *op. cit.*

14 Ord. no. 2004-274 of 25 Mar. 2004 portant simplification du droit et des formalités pour les entreprises; G. Aubron and M. Duvacher, *op. cit.*

15 G. Aubron and M. Duvacher, *op. cit.* (free translation).

16 E. Donval, *op. cit.*, para. 7, citing Aut. conc., *Rapport annuel 2024*.

17 D. Tayar, S. Haddou and C. Gautier, *op. cit.*

18 E. Donval, *op. cit.*, para. 7 (free translation).

19 G. Aubron and M. Duvacher, *op. cit.*

20 Aut. conc., press release of 16 Apr. 2026, *op. cit.*

21 *Ibid.* (free translation).

22 S. Nicinski and P. Idoux, *op. cit.*

B. A measured increase with a clear transition

Article 24 changes the following amounts[23]:

Threshold	Before 1 Sept. 2026	Since 1 Sept. 2026
General regime: worldwide turnover of all the companies involved	€150m	€250m
General regime: turnover in France of each of at least two companies	€50m	€80m
Retail sector: worldwide turnover of all the companies involved	€75m	€100m
Retail sector: turnover in France of each of at least two companies	€15m	€20m

For example, two companies each generating €60 million in turnover in France, and €300 million together worldwide, had to notify their combination before 1 September 2026. This is no longer the case, since neither of them exceeds €80 million in France.

The increase is not the same for all thresholds. Under the general regime, it amounts to around 67% for the worldwide threshold and 60% for the French threshold, but only around 33% in the retail sector[24]. This difference stems from the method chosen by the legislator, which relied on the growth of French GDP since 2004 for the general regime, and only since 2008 for the retail sector, the year in which its specific thresholds were created[25]. The thresholds for the overseas territories do not change, because the Authority wishes to remain very vigilant in these territories, where markets are often concentrated and the cost of living is higher[26]. Another bill even plans to lower the threshold applicable to retail in the overseas territories from €5 million to €3 million[27].

Other countries have made the same choice. Germany raised its thresholds in 2021, which led to a drop of around 20% in the number of notifications[28], and Ireland has recently done the same[29]. It is regrettable, however, that the new French thresholds are also fixed amounts. Italy and the United States, for example, update their thresholds every year according to changes in prices or in the economy[30]. Without such a mechanism, the new thresholds will in turn lose value over time, and the same problem is likely to arise again in a few years.

To manage the transition from one regime to the other, the Authority published a set of frequently asked questions (FAQ) on 24 June 2026[31]. In line with the law, it is the date of notification that determines which thresholds

[23] L. no. 2026-403 of 26 May 2026, *op. cit.*, art. 24, I.
[24] E. Donval, *op. cit.*, para. 5.
[25] D. Tayar, S. Haddou and C. Gautier, *op. cit.*
[26] Aut. conc., press release of 16 Apr. 2026, *op. cit.*
[27] G. Aubron and M. Duvacher, *op. cit.*, citing Article 10 of the bill on combating the high cost of living in the overseas territories (projet de loi de lutte contre la vie chère dans les outre-mer), adopted by the Senate on 28 Oct. 2025.
[28] E. Donval, *op. cit.*, para. 6; G. Aubron and M. Duvacher, *op. cit.*
[29] G. Aubron and M. Duvacher, *op. cit.*
[30] *Ibid.*
[31] Aut. conc., FAQ of 24 June 2026, *op. cit.*; J. Berlemont, « Rehaussement des seuils de contrôle des concentrations : l'Autorité de la concurrence publie une foire aux questions », *RLC* 2026, no. 162; A. Ronzano, « Seuils : L'Autorité de la concurrence apporte des précisions sur l'application des nouveaux seuils de notification des concentrations », *L'actu concurrence*, 24 June 2026, reproduced in *Concurrences* no. 6-2026, art. no. 135942.

apply[32], and not the date on which the agreement is signed or the date of closing, meaning the moment when the transaction is actually completed. A transaction signed before 1 September 2026 and completed after that date therefore does not need to be notified if it does not exceed the new thresholds. In that case, the companies face no penalty for gun jumping, a term that refers to completing a transaction without the required approval[33]. A company that had already notified its transaction before 1 September may also withdraw its filing, unless it had obtained permission to complete the transaction before the Authority's decision and had actually done so. In that case, withdrawing the filing would expose it to a penalty[34].

This FAQ has two limits, however. First, it is not legally binding, as the Authority itself states that it applies "without prejudice to the interpretation" that the Council of State, which reviews its merger decisions, may adopt[35]. Second, the Authority's merger unit will not be able to answer every request for a "comfort letter", meaning a letter confirming that a transaction does not need to be notified, except where there is a specific issue regarding the calculation of turnover[36]. Above all, these safeguards only concern the obligation to notify. They say nothing about the risk that a non-notified transaction may be reviewed later, which is the main weakness of the reform.

II. A reform that remains silent on below-threshold transactions

A. An old problem that the reform makes more visible

The turnover criterion has a long-known weakness, because it measures the current size of a company and not its future importance for competition. A young innovative company may have very low turnover while being a serious future competitor. If a large company buys it, the transaction escapes merger control. The buyer may even use this acquisition to eliminate a future competitor, which is known as a "killer acquisition"[37]. This problem therefore did not arise with the 2026 law. For about ten years, the Authority has considered that a growing number of risky transactions escape its control because the target company has low turnover[38].

Without creating this problem, the reform extends it, since it removes from merger control mid-sized transactions that were previously reviewed. This risk is low, but it is not non-existent. According to the impact

[32] L. no. 2026-403 of 26 May 2026, *op. cit.*, art. 24, II; Aut. conc., FAQ of 24 June 2026, *op. cit.*, question 2.
[33] Aut. conc., FAQ of 24 June 2026, *op. cit.*, question 2.
[34] C. com., art. L. 430-8, II; Aut. conc., FAQ of 24 June 2026, *op. cit.*, question 4.
[35] Aut. conc., FAQ of 24 June 2026, *op. cit.*, preliminary remarks (free translation).
[36] *Ibid.*, question 6.
[37] S. Nicinski and P. Idoux, *op. cit.*
[38] G. Aubron and M. Duvacher, *op. cit.*, citing Aut. conc., public consultation of 20 Oct. 2017.

assessment of the bill, 378 transactions would not have been notified between 2018 and 2022 if the new thresholds had applied. Of these, 309 had been reviewed under the simplified procedure and none had gone to Phase II, but three had been cleared subject to conditions, meaning that the companies had made commitments to protect competition[39]. Under the new thresholds, these three transactions would not have been reviewed before completion.

Tools do exist for these transactions, but they only apply after the fact. The first is abuse of a dominant position, a company being in a dominant position when it is powerful enough on a market to act without taking its competitors into account. In the *Towercast* judgment of 16 March 2023, the Court of Justice of the European Union held that an acquisition not subject to merger control may be sanctioned, after it has been completed, as an abuse of a dominant position[40]. This solution builds on the *Continental Can* judgment of 1973[41]. The Authority applied it for the first time on 6 November 2025, when it fined Doctolib for acquiring its competitor MonDocteur[42]. The second tool is the law on anticompetitive agreements, which prohibits agreements between companies that restrict competition. In its *Équarrissage* (animal rendering) decision of 2 May 2024, the Authority accepted that a below-threshold transaction could be examined from this angle[43].

These tools nevertheless remain limited. The first requires the buyer to already hold a dominant position, the second requires an agreement that restricts competition, and neither amounts to a general control of below-threshold transactions[44]. Moreover, they can be used several years after the transaction has been completed, on the basis of criteria that differ from those of merger control. The legal certainty that the reform gives companies is therefore partly misleading, which E. Donval describes as an illusory legal certainty ("sécurité juridique en trompe-l'œil")[45].

The reform could have another consequence. For several years, the Authority considered that it could ask the European Commission to review transactions that fell below all thresholds, on the basis of Article 22 of the EU Merger Regulation[46]. This "referral" mechanism allows a national authority to hand over the review of a transaction to the

[39] G. Aubron and M. Duvacher, *op. cit.*, citing the impact assessment of the bill.
[40] CJEU, 16 Mar. 2023, case C-449/21, *Towercast*.
[41] CJEC, 21 Feb. 1973, case 6/72, *Europemballage Corporation and Continental Can Company v Commission*.
[42] Aut. conc., 6 Nov. 2025, dec. no. 25-D-06, *Prise de rendez-vous médicaux en ligne*; D. Tayar, S. Haddou and C. Gautier, *op. cit.*; see also G. Serre, « Competition Law and Digital Health Platforms: Lessons from the Doctolib Sanction », *Competition Forum* 2026, no. 0084.
[43] Aut. conc., 2 May 2024, dec. no. 24-D-05, *Équarrissage*; E. Donval, *op. cit.*, para. 13; see also T. Arnoux, « The French Competition Authority carries out the first review of mergers below the national notification thresholds under cartel law », *Competition Forum* 2025, no. 0062.
[44] E. Donval, *op. cit.*, para. 12.
[45] *Ibid.*, para. 14.
[46] Council Regulation (EC) No. 139/2004 of 20 Jan. 2004 on the control of concentrations between undertakings, art. 22; G. Aubron and M. Duvacher, *op. cit.*

Commission. In the *Illumina/Grail* judgment of 3 September 2024, however, the Court of Justice held that a national authority may only request such a referral if it has jurisdiction under its own national law[47]. By raising the French thresholds, the reform could therefore also reduce the number of transactions that the Authority is able to refer to the Commission.

B. A call-in power still awaited

To fill this gap, a solution has been discussed for several years, namely a "call-in power", which would allow the Authority to review a transaction even when it does not exceed the thresholds. During the parliamentary debate, amendment CS744 proposed creating this power at the same time as the thresholds were raised. It was rejected, as members of the National Assembly preferred to wait for the results of the public consultation launched by the Authority in January 2025[48]. The project has not been abandoned, however. In April 2025, the Authority announced that it favoured a strictly framed call-in power[49], and in April 2026 it confirmed that its work was ongoing[50]. The European Competition Network, which brings together the European Commission and national competition authorities, supported this type of mechanism in a joint statement of 23 June 2026[51]. Around ten States of the European Economic Area already have such a power[52].

The outline of this future power nevertheless remains unclear. The Authority is considering making it subject to a lower turnover threshold, a sufficient link with French territory (the "local nexus"), a serious risk to competition and a limited time frame for action[53]. However, no draft text has been published, and these criteria remain very general[54]. Several practical points therefore still need to be clarified, such as the starting point of the period during which the Authority may act, how a company will know whether its transaction has a sufficient link with France, or whether it will be possible to obtain a comfort letter. Criteria that are too vague could lead companies to consult the Authority on all their transactions, which would cancel out the benefits of the reform[55].

Raising the thresholds while asking for a call-in power may seem contradictory, since the first reduces control while the second targets smaller transactions. In reality, both follow

[47] CJEU, Grand Chamber, 3 Sept. 2024, joined cases C-611/22 P and C-625/22 P, *Illumina v Commission*; S. Nicinski and P. Idoux, *op. cit.*

[48] E. Donval, *op. cit.*, para. 4, citing National Assembly, amendment no. CS744, 20 Mar. 2025.

[49] Aut. conc., press release of 10 Apr. 2025, « Opérations de concentration sous les seuils : l'Autorité de la concurrence poursuit ses travaux pour proposer une réforme équilibrée permettant d'assurer un contrôle efficace et une sécurité juridique suffisante aux entreprises »; E. Donval, *op. cit.*, para. 10.

[50] Aut. conc., press release of 16 Apr. 2026, *op. cit.*

[51] ECN, *Joint Statement on the implementation of merger call-in mechanisms*, 23 June 2026, cited in E. Donval, *op. cit.*, para. 10.

[52] G. Aubron and M. Duvacher, *op. cit.*

[53] E. Donval, *op. cit.*, para. 10; G. Aubron and M. Duvacher, *op. cit.*

[54] G. Aubron and M. Duvacher, *op. cit.*

[55] *Ibid.*

the same logic, which is to move from automatic control, based on turnover alone, to control targeted at genuinely risky transactions[56]. The new tool will still need to be coordinated with existing tools. A transaction that the Authority chose not to review could indeed still be pursued later as an abuse of a dominant position or as an anticompetitive agreement. To avoid this double risk, some authors suggest that the Authority should give up such proceedings, except in exceptional circumstances[57].

Finally, the same authors ask whether harmful below-threshold transactions are numerous enough to justify calling into question a simple and predictable system[58]. The answer is not obvious. Article 24 brings a useful and long-awaited simplification, but, as E. Donval points out, its real scope will depend on a second step, namely the creation of a clear, predictable and proportionate framework for transactions that, without reaching the thresholds, deserve the Authority's attention[59]. Until this step is taken, merger control has been refocused, but it remains unfinished.

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[56] *Ibid.*
[57] *Ibid.*
[58] *Ibid.*
[59] E. Donval, *op. cit.*, para. 15.