

# e-Competitions

## Antitrust Case Laws e-Bulletin

### Turkish Antitrust

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## Turkish Antitrust: An overview of Turkish competition law

**DOMINANCE (ABUSE), AGREEMENT (NOTION), FOREWORD, TURKEY, MERGER (NOTION), COMPETITION POLICY**

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e-Competitions Special Issue Turkish Antitrust | 5 September 2019

### I. Introduction

The articles in this Special Issue aim to demonstrate how the Turkish Competition Board (the “**Board**”) paved the way for the harmonization of the Turkish competition law regime with European Union law over the span of the past decade on various fronts. In a similar vein, these articles also intend to shed light on the contemporary approach adopted by the Board in cases concerning anticompetitive practices, unilateral practices and mergers.

At a first glance, it might be beneficial to briefly underline the rationale beneath such harmonization before diving into the essentials of the matters that are covered within this Special Issue. Indeed, as per the Ankara Agreement (“**Ankara Agreement**”) executed between the European Economic Community and the Republic of Turkey, it is agreed that the principles on competition, taxation and harmonisation of legislation, which had been set forth under the Treaty of Rome establishing the European Economic Community, would be applied to the association between Turkey and the European Union. Pursuant to Article 39(1) of the Association Council Decision No. 1/95 (“**Decision No. 1/95**”), which was adopted by the Association Council as established pursuant to the Ankara Agreement and its Additional Protocol, Turkey was obliged to harmonize its legislation on competition in compliance with the *acquis communautaire* and to ensure the effective application of these rules.

Further to Decision No. 1/95 in connection with the harmonization of Turkish legislation on competition with the *acquis communautaire*, Law No. 4054 on the Protection of Competition (“**Law No. 4054**”) was entered into force in 1994. This legislation aims to prevent agreements, decisions and practices preventing, distorting or restricting competition in markets for goods and services, and the abuse of dominance by the undertakings dominant in the market, and to ensure the protection of competition by performing the regulations and supervisions necessary to that end.

In this context, the Turkish competition law is closely modelled after the European competition law model, thus incorporates various features of the legislative framework of the European Union. Especially the secondary legislation, in particular the different guidelines of the Turkish Competition Authority (the “**Authority**”) are akin to–

if not the same as—the guidelines established by the European Union. Although the Authority closely monitors the new developments introduced by the European Commission (the “**Commission**”) in terms of potential legislative reforms, the case law of the Board remains to be the main driving force in the continuous evolution of the Turkish competition law regime.

The articles in this Special Issue set forth the incline towards a more harmonized approach with the European Union competition law. The approach to adopt a more uniform European competition framework, which has manifested itself through the Board’s decisional practice. To that end, the cases addressed within this Special Issue could be categorized under the following three main headings, namely anticompetitive practices, unilateral practices and mergers.

## II. Anticompetitive Practices

Article 4 of Law No. 4054 is a reflection of Article 101 of the Treaty on the Functioning of the European Union (“**TFEU**”). It prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices having (or which may have) as their object or effect the prevention, restriction or distortion of competition within a Turkish products and/or services market or a part thereof.

Unlike the TFEU, however, Article 4 of Law No. 4054 does not refer to “appreciable effect” or “substantial part of a market” and thereby, as of yet, excludes any *de minimis* exception. Consequently, under the Turkish competition law regime, the restrictive effect does not have to be “appreciable” or “affecting a substantial part of a market” for an infringement to exist. Article 4 of Law No. 4054 also prohibits any form of agreement that has the “potential” to prevent, restrict or distort competition.

The articles within the present section of this Special Issue focus on the essential points of the Board’s recent enforcement trends within the scope of Article 4 of Law No. 4054, and portray the Board’s methods of assessment regarding anticompetitive practices.

In this respect, the articles regarding the Board’s Jotun (dated 15.02.2018, numbered 18-05/74-40) [1] and BSH (dated 22.08.2017, numbered 17-27/454-195) [2] decisions elaborate on the Board’s approach in terms of the restriction of online sales. These two decisions include direct references to the European Commission’s Vertical Agreements Block Exemption Regulation, the European Commission’s Guidelines on Vertical Restraints, as well as the precedent of EU courts and competition authorities (e.g., Pierre Fabre, Scout Satchels, Bang & Olufsen, Bosch Siemens) which include several decisions regarding the restriction of online sales.

The Board referred to the European Commission’s Guidelines on Vertical Restraints given that these decisions were adopted before the amendments to the Authority’s Guidelines on Vertical Agreements. Nevertheless, these two decisions explicitly demonstrate that the Board monitors and incorporates recent enforcement trends of the European Commission, and does not hesitate to highlight the necessity for certain legislative reforms.

The article regarding the Board’s Mastervolt/Eltesan decision (dated 11.05.2016, numbered 16-16/278-122) [3] focuses on the restriction of parallel imports. To that end, although there are certain decisions in which the Board considered that restrictions on parallel imports fall under the scope of the Law No. 4054, what separates the Board’s approach in Mastervolt/Eltesan is the fact that it employed the effects-based analysis in the substantial assessment. The Board’s analysis was struck down by the court on the grounds that parallel import restrictions constitute a competition law violation by object.

The second article of this Special Issue regarding parallel exports restrictions in vertical agreements deals with the Board's Roche/Corena decision (dated 17.06.2010, numbered 10-44/785-262) [4]. In this decision, the Board concluded that export bans are outside its jurisdiction and decided not to initiate a full-fledged investigation against Roche, which eventually led Corena to seek a judicial remedy before the High State Court. That being said, the Board's decision was annulled by the High State Court on procedural grounds, in which the Court concluded that in cases where there is a lack of sufficient information and evidence, the Board must proceed to a full-fledged investigation.

The article regarding the Board's *TUÇEF/TURÇEF* decision (dated 03.05.2018, numbered 18-13/230-105) [5] highlights the Board's approach with respect to the recommended price lists published by associations of undertakings from a Turkish competition law perspective. The decision is also important for procedural reasons as it confirms that the Board is authorized by law to freely decide whether or not to send a written opinion to the relevant associations of undertakings ordering them to end their practices (in this case, publishing price lists), depending on the circumstances and specific facts of a given case, without a preliminary condition to launch an investigation.

The Board's Aygaz (dated 16.11.2016, numbered 16-39/659-294) [6] and Doğtaş/Yataş (27.09.2017, numbered 17-30/487-211) [7] decisions deal with the Board's effect-based assessment on resale price maintenance practices. The Board's Aygaz decision provides valuable explanations regarding the assessment on resale price maintenance practices when applied between an agent and its supplier. Indeed, similar to the principles applied under the EU competition law regime, the Turkish competition law provides that, in case of sales through a genuine agent within the context of competition law (i.e. an agent which does not take any commercial or financial risk), such agency relationship would fall outside the scope of Article 4 of Law No. 4054. The Board based its reasoning in this case on the grounds of this rule as it decided that a supplier may interfere with its agents' pricing decisions and impose resale prices and discounts. On the other hand, the Board's Doğtaş /Yataş decision, included similar allegations of resale price maintenance through a best price guarantee campaign. The Board referred to the justifications provided by Yataş on Yataş's intentions in setting a best price guarantee campaign (e.g. the protection of the image of the company) and decided that, given the lack of any evidence against Yataş's arguments, there is no need to undertake a full-fledged investigation against Yataş's resale price maintenance practices.

The article regarding the Board's reassessment of the Turkish Pharmacists Association (dated 05.04.2018, numbered 18-10/185-88) [8] concerns the methods of calculation of the administrative monetary fines applied under the Turkish competition law framework. Indeed, the Board's relevant decision is highly influential, as it (i) provides comprehensive and instructive explanations on the methods to be used, in order to lawfully determine the administrative monetary fine amount, and (ii) sheds light on the correct and appropriate implementation of the principle of *reformatio in peius* by the Board when reassessing the amount of the administrative monetary fine subsequent to an annulment order by an administrative court.

The article discussing the Board's Vodafone/Supersonic decision (dated 08.08.2018, numbered 18-27/438-208) [9] provides detailed explanations on the Board's individual exemption assessment regarding the agreement concluded between Vodafone and Supersonic granting each other access to their respective infrastructure for wholesale fibre-optic broadband services and providing support services to each other's customers. The Board took into consideration each of the individual exemption criterion as listed under Article 5 of Law No. 4054 (which is akin to Article 101(3) of TFEU) and efficiencies expected from the relevant agreements for customers in the telecommunication sectors. The article is precisely noteworthy as it shows the steps of the individual exemption assessment applied by the Board and accentuates the similarity between the Turkish approach and the methods applied under the EU competition law rules.

The article regarding the Board's Çimbeton decision (dated 22.08.2017, numbered 17-27/452-194) [10] is significant as it deals with the conditions to demonstrate a concerted practice and the Board's assessment on the evidence in the case file. To that end, in this decision, the Board considered that a period of three months would not be sufficient to decide on the existence of a concerted practice. Therefore, the Board's decision could be a potential landmark decision as it does not follow the Board's previous case law which included similar allegations and thus it would be interesting to observe which approaches the Board will adopt in cases regarding concerted practices in the future.

### III. Unilateral Practices

Under the Turkish competition law regime, abusive unilateral conducts of a dominant undertaking are prohibited under Article 6 of Law No. 4054, which provides that "*any abuse on the part of one or more undertakings, individually or through joint venture agreements or practices, of a dominant position in a market for goods or services within the whole or part of the country is unlawful and prohibited*". Although Article 6 of Law No. 4054 does not define what constitutes 'abuse' per se, it provides certain examples of prohibited abusive behaviours, in the form of a non-exhaustive list which is akin to Article 102 of the TFEU. Dominance in a market is the primary condition for the application of Article 6 of Law No. 4054 under the Turkish competition law regime.

The definition of dominance can be found under Article 3 of Law No. 4054 which is set out as "*the power of one or more undertakings in a certain market to determine economic parameters such as price, output, supply and distribution independently from competitors and customers*". That being said, recent enforcement trends show that has adopted a more lenient approach to broaden the scope of application of Article 6 prohibition by diluting the 'independence from competitors and customers' element of the definition to infer dominance even in cases where clear dependence or interdependence on either competitors or customers exist.

In this context, the articles under the present section of this Special Issue essentially target to elucidate the Board's approach regarding the abuse of dominance allegations in terms of the regulated sectors and dynamic markets. To that end, the articles regarding the Board's Enerjisa (dated 08.08.2018, numbered 18-27/461-224) [11] and Akdeniz Elektrik (dated 20.02.2018, numbered 18-06/101-52) [12] decisions analyze the Board's approach in terms of the determination of dominant position in the electricity sector and highlight the key points of the Board's analysis in the context of dominance allegations. On the other hand, the article regarding the Board's Akdeniz Elektrik decision (dated 20.02.2018, numbered 18-06/101-52) [13] focuses on the Board's assessment as to whether being part of a single economic entity justifies granting access to confidential information, to a company in a downstream market. Furthermore, the article also underlines the manner in which the Board deems abuse of dominance "by object" or "potential for exclusionary effect" to be sufficient for a finding of infringement. Likewise, in its Tüpraş/Ader decision (dated 16.03.2016, numbered 16-10/159-70) [14], the Board considered the actual or potential impacts of turnover rebate systems in order to assess the alleged anticompetitive effects of such systems. In a similar vein, the Board's Enerjisa decision (dated 08.08.2018, numbered 18-27/461-224) [15] elaborates on the abuse of dominance allegations through the exchange of information that is deemed to be sensitive under the notion of competition law, between the distribution companies and the authorized supply companies.

Online platform services have been on the Authority's agenda as they have become an essential element of sales and purchases for various sectors, thus increasingly important for commercial activities. Given that the development process of the online service markets is still ongoing, and catalyzing innovative sales methods which are alternative to the traditional sales channels, the Board particularly focuses on the foreclosure effects of the unilateral practices on these markets. To that end, the article regarding the Board's Sahibinden.com decision

(dated 01.10.2018, numbered 18-36/584-285) [16] focuses on the Board's analysis in terms of determination of dominant position and excessive pricing in a dynamic market. On the other hand, the article on the Board's Çiçek Sepeti (dated 08.03.2018, numbered 18-07/111-58) [17] decision demonstrates the Board's detailed evaluations on excluding competitors through predatory pricing and intense advertisement expenses in a multi-dimensional online sales market. The Board's decision is also interesting as it also assesses the abuse of dominance allegations by means of litigating against competitors ('sham litigation'). The articles addressing the Board's Turkcell II (dated 10.01.2019, numbered 19-03/23-10) [18], Frito Lay (dated 12.06.2018, 18-19/329-163) [19], and Sony (dated 22.11.2018, numbered 18-44/703-345) [20] decisions encapsulate the Board's recent assessments regarding the resale price maintenance allegations in three relatively distinct sectors.

As for the other essential decisions regarding the abuse of dominance through anticompetitive behaviors, the articles regarding the Board's Congresium (dated 27.10.2016, numbered 16-35/604-269) [21] and Soda Sanayi (dated 20.04.2016, numbered 16-14/205-89) [22] decisions provide information on the Board's common approach regarding the refusal to deal and the practice of excessive pricing under the Turkish competition law alongside explanations regarding the Board's factual effect-based assessment.

#### IV. Mergers

Article 7 of Law No. 4054 governs mergers and acquisitions, and authorises the Board to regulate, through communiqués, which mergers and acquisitions require notification to the Authority to become legally valid. In accordance, Communiqué No. 2010/4 on Mergers and Acquisitions Requiring the Approval of the Competition Board ("**Communiqué No. 2010/4**") is the primary instrument in assessing merger cases in Turkey and sets forth the types of mergers and acquisitions which are subject to the Board's review and approval. With a continued interest in harmonising Turkish competition law with the EU competition law, the Authority has also published guidelines on merger control that are in line with the EU antitrust and merger control rules.

The articles regarding the Board's Mikro/Zirve and UTC/Rockwell decisions aim (i) to provide further guidance in terms of the additional criteria as explained below that might come into play during the notifiability analysis and (ii) to underline the similarities and nuances between the Turkish merger control regime and the EU merger control regime regarding these criteria.

To that end, Mikro/Zirve decision (dated 18.01.2018; numbered 18-03/25-13) [23] is one of the Board's prominent decisions providing further guidance regarding the exceptional rule under Article 8(5) of Communiqué No. 2010/4 which is modelled after Article 5(2) second subparagraph of EC Merger Regulation ("**ECMR**") regarding "creeping transactions". This exceptional rule is rather different from Article 5(2) of ECMR and paragraphs 50 and 137 of European Commission's Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings ("**CJN**"). The Turkish provision provides that (1) two or more transactions realized between the same persons or parties within three years; or (2) two or more transactions realized by the same undertaking within the same relevant product market within three years; are to be considered as a single transaction in terms of the calculation of the turnover for the purpose of the turnover thresholds.

On the other hand, the UTC/Rockwell decision (dated 18.01.2018, numbered 1803/2614) [24] is a recent decision demonstrating that transactions affected by way of a so-called "reverse triangular merger" or a similar transaction structure would be deemed as acquisitions under the Turkish merger control regime. In the absence of any legislative explanations similar to paragraph 9 of CJN, this decision is important for further bolstering and demonstrating the Board's consistent case law on this front.



The articles regarding the Board's PSPIB/Partners Group and Turkland/Groupmed decisions highlight the Board's approach regarding scenarios which include relatively complex control structures and the question as to whether the factors taken into account on this front resemble the elements under the EU merger control regime. In this respect, the Turkland/Groupmed decision (dated 27.08.2018, numbered 18-29/491-242) [25] illustrates the similarities between paragraphs 80 and 88 of CJN and the Board's approach regarding the transactions resulting in shifting alliances. To that end, the decision underlines that if a transaction would result in shifting alliances; it would not constitute a concentration under the Turkish merger control regime and thus, would not require a mandatory merger control filing before the Turkish Competition Authority. The PSPIB/Partners Group decision (dated 28.02.2017, numbered 17-09/104-47) [26] is a rather unique decision of the Board as it provides further insight regarding the analysis of joint control structures which involve casting votes. The decision provides an analysis similar to the principles set forth under paragraph 82 of the CJN regarding the casting votes having limited relevance and effect.

The article regarding the Board's General Electric Company (dated 17.10.2018, numbered 18-39/620-300) [27] decision emphasizes that so long as there is a change in control on a lasting basis involving a full-function joint venture and the turnover thresholds under Article 7 of Communiqué No. 2010/4 are met, a transaction would require a mandatory merger control filing before the Turkish Competition Authority and there are no exceptions to avoid the filing requirement. The decision is one of the recent examples of the Board's precedent explicitly and consistently indicating that a joint venture transaction would be subject to merger control filing in Turkey whenever the jurisdictional turnover thresholds are exceeded, even in cases where the joint venture is not/will not be active in Turkey and will not have any effects in the near future (or perhaps ever) on Turkish markets.

The articles regarding Turkuvaz TK/Doğan Müzik (dated 29.05.2018, numbered 18-16/293-146) [28] and International Paper Company/Weyerhaeuser (dated 23.09.2016, numbered 16-31/519-233) [29] decisions of the Board focus on two main aspects regarding the relevant product and geographic market discussions within the scope of merger control processes under the Turkish merger control regime. To that end, the Turkuvaz TK/ Doğan Müzik decision evaluates whether online sales channels constitute a separate product market from the traditional sales channels. On the other hand, the International Paper Company/Weyerhaeuser decision is one of the unique decisions of the Board in which the scope of the geographic relevant product market is considered to be wider than Turkey. Indeed, in this decision, the Board evaluated whether the geographic market could be defined as "worldwide" for several reasons such as the lack of production in Turkey, the imported nature of the products, low transport costs and the lack of barriers to inter-state trade. All in all, the Board left the geographic market definition open, however still considered that the dynamics of the global markets that should be taken into consideration in the assessment of the impacts on the relevant product markets in Turkey.

The Board's assessment in its Vive/Toyota (dated 06.04.2017, numbered 17-12/143-63) [30] decision epitomizes the Board's analysis regarding conglomerate transactions. This decision is significant because while the conglomerate effects of transactions have been an important issue for the European Commission in the recent years (e.g. Essilor / Luxottica (01.03.2018, Case COMP/ M.8394); Bayer / Monsanto (11.04.2018, Case COMP/ M.8084); Qualcomm/NXP (18.01.2018, Case COMP/ M.8306)) the Board focused on the conglomerate effects of transactions only through this Vive/Toyota decision.

Finally, the articles regarding the Board's Bayer/Monsanto (dated 08.05.2018, numbered 18-14/261-126) [31] and Bekaert/Pirelli (dated 22.01.2015, numbered 15-04/52-25) [32] decisions aim to set forth the Board's competitive analysis within the scope of the dominance test with a particular focus on evaluation of the remedies under the Turkish merger control regime. To that end, the Bayer/Monsanto decision bolsters the Board's case law setting forth that the Board could approve a concentration by taking into account the Turkey-specific effects of the

remedies submitted before the European Commission. The decision also focuses on the details of the Board's assessment on various parameters such as entry barriers, vertical integration, technological advantages, financial power, and economies of scale, as well as intellectual property rights, and brand loyalty, in addition to the market shares of the parties. On the other hand, the Bekaert/Pirelli decision elucidates Board's analysis in terms of the efficiency and sufficiency of behavioural remedies submitted by the parties during the Phase II review.

The authors of this article would like to express their gratitude to Salih Buğrahan Köroğlu, an associate at ELIG Gürkaynak Attorneys-at-Law, for his assistance in the research and writing process of this Special Issue.

**Note from the Editors:** although the e-Competitions editors are doing their best to build a comprehensive set of the leading EU and national antitrust cases, the completeness of the database cannot be guaranteed. The present foreword seeks to provide readers with a view of the existing trends based primarily on cases reported in e-Competitions. Readers are welcome to bring any other relevant cases to the attention of the editors.

[1] See **Gönenç Gürkaynak**, *The Turkish Competition Board publishes a decision concerning resale prices and sales conditions of authorised dealers in the paint sector (Jotun Boya Sanayi / Ticaret AŞhad)*, 15 February 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 87236.

[2] See **Gönenç Gürkaynak**, **Eda Duru**, *The Turkish Competition Board publishes its reasoned decision on the preliminary investigation on the allegations that a white goods manufacturer restricted online sales of its dealers (BSH)*, 22 August 2017, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 85653.

[3] See **Gönenç Gürkaynak**, **Eda Duru**, *The Ankara 7th Administrative Court annuls the Turkish Competition Board's dismissal decision regarding the allegations on the restriction of parallel imports in the market of energy system (Mastervolt / Eltesan)*, 28 November 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 88821.

[4] See **Gönenç Gürkaynak**, **Eda Duru**, *The Turkish High State Court annuls the Competition Board's decision concerning parallel export restrictions in a vertical agreement (Roche / Corena)*, 16 December 2016, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 84367.

[5] See **Betül BaŞ Çömlekçi**, **Gönenç Gürkaynak**, *The Turkish Competition Board prohibits the publishing of price lists by two professional federations of translators and translation offices (TUÇEF / TURÇEF)*, 3 May 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 87982.

[6] See **Gönenç Gürkaynak**, **Ceren Özkanlı Samlı**, *The Turkish Competition Board publishes its reasoned decision on the investigation conducted against upon allegations of resale price fixing on the auto gas market (Aygaz)*, 16 November 2016, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 84888.

[7] See **Gönenç Gürkaynak**, *The Turkish Competition Board publishes a decision following its preliminary investigation on alleged restrictive practices by an undertaking and its retailers in a wide range of sectors (Doğtaş Kelebek Mobilya / Yataş Yorgan ve Yatak San ve)*, 27 September 2017, *e-*

*Competitions Bulletin Turkish Antitrust, Art. N° 86347.*

[8] See **Gönenç Gürkaynak**, *The Turkish Competition Board publishes its reasoned decision regarding anticompetitive practices in the Pharmacies sector and provides explanations on the calculation of the fine after its first decision was annulled on appeal (Turkish Pharmacists Association)*, 5 April 2018, *e-Competitions Bulletin Turkish Antitrust, Art. N° 88012.*

[9] See **Gönenç Gürkaynak**, *The Turkish Competition Board publishes a decision regarding an agreement granting access to infrastructure (Vodafone / Superonline)*, 8 August 2018, *e-Competitions Bulletin Turkish Antitrust, Art. N° 88979.*

[10] See **Gönenç Gürkaynak**, *The Turkish Competition Board concludes its ready-mixed concrete investigation with no fines (Çimbeton)*, 22 August 2017, *e-Competitions Bulletin Turkish Antitrust, Art. N° 84793.*

[11] See **Gönenç Gürkaynak, Esra Uçtu**, *The Turkish Competition Board finds abuse of dominant positions in the electricity sector and so imposes fines (Enerjisa)*, 8 August 2018, *e-Competitions Bulletin Turkish Antitrust, Art. N° 89724.*

[12] See **Gönenç Gürkaynak, Burcu Can**, *The Turkish Competition Board fines an electricity distributor and its subsidiary for abuse of dominance (Akdeniz Elektrik)*, 20 February 2018, *e-Competitions Bulletin Turkish Antitrust, Art. N° 88191.*

[13] See **Gönenç Gürkaynak, Burcu Can**, *The Turkish Competition Board fines an electricity distributor and its subsidiary for abuse of dominance (Akdeniz Elektrik)*, 20 February 2018, *e-Competitions Bulletin Turkish Antitrust, Art. N° 88191.*

[14] See **Gönenç Gürkaynak, Ceren Özkanlı Samlı**, *The Turkish Competition Board concludes that a new turnover rebate system does not constitute an abuse of dominance in the fuel wholesale market (Tüpraş / Ader)*, 13 March 2016, *e-Competitions Bulletin Turkish Antitrust, Art. N° 82635.*

[15] See **Gönenç Gürkaynak, Esra Uçtu**, *The Turkish Competition Board finds abuse of dominant positions in the electricity sector and so imposes fines (Enerjisa)*, 8 August 2018, *e-Competitions Bulletin Turkish Antitrust, Art. N° 89724.*

[16] See **Esra Uçtu, Gönenç Gürkaynak**, *The Turkish Competition Authority finds that an online platform services for real estate and vehicle sales abused of its dominant position through implementing excessive prices (Sahibinden)*, 1 October 2018, *e-Competitions Bulletin Turkish Antitrust, Art. N° 89255.*

[17] See **Eda Duru, Gönenç Gürkaynak**, *The Turkish Competition Board decides not to open an investigation against a company active in online sales of flowers, edible flowers and gifts following allegations of predatory pricing (Çiçek Sepeti)*, 8 March 2018, *e-Competitions Bulletin Turkish Antitrust, Art. N° 87346.*

[18] See **Gönenç Gürkaynak, Burcu Can**, *The Turkish Competition Board fines Turkcell for resale price maintenance after the Council of State annulled its first decision finding no infringement regarding prepaid card prices (Turkcell II)*, 10 January 2019, *e-Competitions Bulletin Turkish Antitrust, Art. N° 91155.*



[19] See *Esra Uçtu, Gönenç Gürkaynak, The Turkish Competition Board rejects exclusivity allegations against a packaged chips producer (Frito Lay)*, 12 June 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 88190.

[20] See *Gönenç Gürkaynak, Eda Duru, The Turkish Competition Authority fines a consumer electronics company for resale price maintenance on online sales channels (Sony)*, 22 November 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 90639.

[21] See *Gönenç Gürkaynak, The Turkish Competition Board imposes administrative monetary fine on an expo centre operator for abuse of dominance through refusal to deal (Congresium)*, 27 October 2016, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 83757.

[22] See *Gönenç Gürkaynak, The Turkish Competition Board takes legal action against an undertaking for abuse of dominance and restrictive agreements (Soda Sanayii)*, 20 April 2016, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 83553.

[23] See *Gönenç Gürkaynak, Onur Özgümüş, The Turkish Competition Board approves acquisition of IT company subject to a mandatory merger control although it does not satisfy the jurisdictional turnover thresholds on a stand-alone basis (Zirve / Mikro)*, 18 January 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 91457.

[24] See *Gönenç Gürkaynak, Onur Özgümüş, The Turkish Competition Board unconditionally approves the acquisition of sole control realized by way of a reverse-triangular merger (UTC / Rockwell)*, 18 January 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 91500.

[25] See *Gönenç Gürkaynak, Onur Özgümüş, The Turkish Competition Board holds that the indirect changes on the shareholding structures of two companies do not constitute concentrations and thus, granted negative clearance to the transaction (Turkland / Groupmed)*, 27 August 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 91499.

[26] See *Gönenç Gürkaynak, Onur Özgümüş, The Turkish Competition Board rules that the existence of a casting vote should not hinder the acquisition of indirect joint control over company in the healthcare sector (PSPİB / Partners Group)*, 28 February 2017, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 91455.

[27] See *Gönenç Gürkaynak, Esra Uçtu, The Turkish Competition Board assessed the creation of two separate joint ventures by four companies and decides that it is necessary for a merger control review to be completed (GE / Sumitomo / Shikoku / Sharjah / Projectco / O&MCO)*, 17 October 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 91503.

[28] See *Gönenç Gürkaynak, Esra Uçtu, The Turkish Competition Board clears a merger between retailers in the bookselling industry (Turkuvaz / D&R)*, 29 May 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 91505.

[29] See *Gönenç Gürkaynak, Esra Uçtu, The Turkish Competition Board grants unconditional approval to a merger between a producer and a distributor of paper (International Paper Company / Weyerhaeuser)*, 23 September 2016, *e-Competitions Bulletin September 2016*, Art. N° 91502.

[30] See **Gönenç Gürkaynak, Esra Uçtu**, *The Turkish Competition Board clears a conglomerate merger (Vive / Toyota)*, 6 April 2017, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 91504.

[31] See **Gönenç Gürkaynak, Onur Özgümüş**, *The Turkish Competition Board approves the acquisition of control over chemical company based on commitments submitted to the EU Commission (Bayer / Monsanto)*, 8 May 2018, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 91498.

[32] See **Gönenç Gürkaynak, Esra Uçtu**, *The Turkish Competition Board decides to grant conditional approval to a transaction based on the commitments offered by the acquiring company after evaluating the parties' market positions and potential anticompetitive concerns (Bekaert / Pirelli)*, 22 January 2015, *e-Competitions Bulletin Turkish Antitrust*, Art. N° 91501.