



Turkish Competition Authority Awaiting Official Assignment of New Board Members to Re-Establish Final Decision Quorum

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The Competition Board (the “**Board**”), the competent decision-making organ of the Turkish Competition Authority, no longer has the quorum required to render final/executable decisions as the tenure of three (3) members came to an end as of the beginning of August 2022. Final decisions, including merger clearance decisions, closure of pre-investigation and investigation procedures, are currently pending while the Board is awaiting official assignment of new board members to re-establish final/executable decision quorum.

Per Article 22 of Law No.4054 on Protection of Competition (“**Law No. 4054**”), the Board consists of 7 members. Article 51 of Law No. 4054 provides that the quorum for meetings of the Board is five (5) members, while the decision quorum is four (4) members. As the tenure of three (3) members of the Board came to an end as of August 2022, the Board no longer has the quorum required to take final/executable decisions, with only four (4) members left. This standstill would last until the quorum has been reinstated with the official appointment of at least one (1) Board member.

This is not the first time the Board has experienced such a situation. In similar situations taking place previously, regarding no-issue merger control filings in particular, either the Board has in the interim implemented the implied approval mechanism (*i.e.* a tacit approval is deemed if the Board does not react within thirty (30) calendar days upon the last entry into the case file) in accordance with Article 10 of Law No. 4054 by way of lack of reaction or the remaining Board members have sometimes still adopted unanimous approval decisions to support the implied approval mechanism with a view to providing further legal certainty.

At this stage, it remains to be seen whether the Board would resort to these approaches it previously adopted in cases of the standard no-issues merger control filings, and whether there will be any need for that in terms of the assignment timing. That said, there is historical reason to believe that there is a strong possibility that the lack of quorum would not affect the ongoing review processes of the no-issues standard merger control filings. On the other hand, the fact that the Board has lost the quorum required to render final/executable decisions will keep hindering the Board's decision-making process in cases other than no-issue merger filings.

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