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Turkey: Dominance

Gönenç Gürkaynak and Hakan Özgökçen
ELIG Attorneys at Law

Overview

In Turkey, unilateral conduct of a dominant undertaking is restricted by article 6 of the Law on the Protection of Competition (Law No. 4054). It 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 does not define what constitutes 'abuse' per se, it provides five examples of forbidden abusive behaviour, which comes as a non-exhaustive list, and falls to some extent in line with article 102 of the Treaty on the Functioning of the European Union (TFEU). Accordingly, these examples include the following:

- directly or indirectly preventing entries into the market or hindering competitor activity in the market;
- directly or indirectly engaging in discriminatory behaviour by applying dissimilar conditions to equivalent transactions with similar trading parties;
- making the conclusion of contracts subject to acceptance by the other parties of restrictions concerning resale conditions such as the purchase of other goods and services or; acceptance by the intermediary purchasers of displaying other goods and services or maintenance of a minimum resale price;
- distorting competition in other markets by taking advantage of financial, technological and commercial superiorities in the dominated market; and
- limiting production, markets or technical development to the prejudice of consumers.

Pursuant to article 6, the abusive exploitation of a dominant market position is prohibited in general. Therefore, the article 6 prohibition applies only to dominant undertakings, and in similar fashion to article 102 of the TFEU, dominance itself is not prohibited, but only the abuse of dominance is outlawed. Further, article 6 does not penalise an undertaking that has captured a dominant share of market because of superior performance.

Dominance provisions as well as other provisions of Law No. 4054 apply to all companies and individuals, to the extent that they qualify as an undertaking which is defined as a single integrated economic unit capable of acting independently in the market to produce, market or sell goods and services. Notably, state-owned entities also fall within the scope of the application of article 6.

Dominance

The definition of dominance could be found in article 3 of Law No. 4054 which states that '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.' Enforcement trends show that the Turkish Competition Board (the Competition Board) is increasingly inclined to broaden the scope of application of the 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 to either competitors or customers exist (see, for example, the Board's *Coal Enterprise* decision No. 04-76/1086-271, dated 1 December 2004, and *Warner Bros* decision No. 05-18/ 224-66 dated 24 March 2005).

When unilateral conduct is in question, dominance in a market is the primary condition for the application of the prohibition stipulated in article 6. For establishing a dominant position, first, the relevant market has to be defined and secondly, the market position has to be determined. The relevant product market includes all goods or services that are substitutable from a customer's point of view. The Guideline on Market Definition considers demand-side substitution as the primary standpoint of market definition. Thus, the undertakings concerned have to be in dominant position in relevant markets which are to be determined for every individual case and circumstance. Under Turkish competition law, market share of an undertaking is the primary step for evaluating its position in the market. In theory, there is no market share threshold above which an undertaking will be presumed to be dominant. On the other hand, subject to exceptions, an undertaking with a market share of 40 per cent is a likely candidate for dominance, whereas a firm with a market share of less than 25 per cent would not generally be considered dominant.

In assessing dominance, although the Competition Board considers high market shares as the most indicative factor of dominance, the Competition Board also takes account of other factors (such as legal or economic barriers to entry, portfolio power and financial power of incumbent firm). Thus, domination of a given market cannot solely be defined on the basis of the market share held by an undertaking or of other quantitative elements, but other market conditions as well as the overall structure of the relevant market should be assessed in detail.

Collective dominance

Collective dominance is also covered by the Law No. 4054, as indicated in the aforementioned definition provided in article 6. On the other hand, precedents concerning collective dominance are not mature enough to allow for a clear inference of a set of minimum conditions under which collective dominance should be alleged. That said, the Competition Board has considered it necessary to establish an economic link for a finding of abuse of collective dominance (see, for example, *Turkcell/Telsim* decision, No. 03-40/432-186, dated 9 June 2003).

Dominance under merger control rules

Structural changes through which an undertaking attempts to establish dominance or strength its dominant position (for instance in cases of acquisitions) are regulated by the merger control rules established under article 7 of Law No. 4054. Nevertheless, mere demonstration of post-transaction dominance in itself is not sufficient for the enforcement under the Turkish merger control rules, but rather 'a restriction of effective competition' element is required to deem the relevant transaction as illegal and prohibited. Thus, the principles laid down in merger decisions can be applied also to cases involving the abuse of dominance.

On a separate note, mergers and acquisition are normally caught by the merger control rules contained in article 7 of Law No. 4054. However, there have been cases, albeit rarely, where the Competition Board found structural abuses through which dominant firms use joint venture agreements as a back-up tool to exclude competitors which is prohibited under article 6 (see, for example, *Biryay* decision, No. 00-26/292-162, dated 17 July 2000).

Abuse

As aforementioned, the definition of abuse is not provided under article 6 of Law No. 4054. It only contains a non-exhaustive list of certain forms of abuse. Moreover, article 2 of Law No. 4054 adopts an effects-based approach for identifying anti-competitive conduct, with the result that the determining factor in assessing whether a practice amounts to an abuse is the effect on the market, regardless of the type of the conduct at issue. Notably, the concept of abuse covers exploitative, exclusionary and discriminatory practices. Theoretically, a causal link must be shown between dominance and abuse. The Competition Board does not yet apply a stringent test of causality, and it has in the past inferred abuse from the same set of circumstantial evidence that was employed in demonstrating the existence of dominance. Furthermore, abusive conduct on a market that is different to the market subject to dominant position is also prohibited under article 6. The Board found incumbent undertakings to have infringed article 6 by engaging in abusive conduct in markets that are neighbouring to the dominated market (see, for example, *Türk Telekom* decision, No. 02-60/755-305 and dated 2 October 2002, and *Turkcell* decision, No. 01-35/347-95 dated 20 July 2001).

Specific forms of abuse

Under Turkish competition law regime, specific forms of abuse are apparent. First off, price and non-price competition may amount to an abusive conduct under article 6. The Competition Board has in the past found incumbent undertakings to have infringed article 6 by engaging in discriminatory behaviour concerning prices and other trade conditions (see, for example, *TTAS* decision, No. 02-60/755-305, dated 2 October 2002, and *Türk Telekom/TTNet* decision, No. 08-65/1055-411, dated 19 November 2008).

As mentioned above, both exploitative and exclusionary abuses fall within the prohibitions provided under article 6. On the other hand, exploitative prices or terms of supply may be deemed an infringement although the wording of the provision does not contain a specific reference to this concept. The Competition Board has condemned excessive or exploitative pricing by dominant firms in the past. However, complaints filed on this basis are frequently dismissed because of the Competition Authority's reluctance to micro manage pricing behaviour.

Although article 6 does not explicitly refer to rebate schemes as a specific form of abuse, rebate schemes may also be deemed to constitute a form of abusive behaviour. In particular, the Competition Board, in its *Turkcell* decision (No. 09-60/1490-37, dated 23 December 2009) has condemned the defendant for abusing its dominance by, among other things, applying rebate schemes to encourage the use of the Turkcell logo and refusing to offer rebates to buyers that work with the competitors. In addition to that, in a recent decision (*Doğan Holding* decision, No. 11-18/341-10, dated 30 March 2011), the Competition Board condemned the biggest undertaking in the media (Doğan Yayın Holding) sector in Turkey for abusing its dominance position in the market for advertisement spaces in the daily newspapers by applying loyalty inducing rebate schemes.

Predatory pricing may be regarded as a form of abuse, although the Competition Board has never (apart from the *Turk Telekom* decision, which concerns margin squeeze rather than straight forward predatory pricing) condemned an undertaking on the basis of predatory pricing, as evidenced by many precedents, the Competition Board is considerably familiar with the the elements of the predatory pricing (see for example the *Trakya Cam* decision No. 11-57/1477-533, dated 17 November 2011; the *Denizcilik İşletmeleri* decision No. 06-74/959-278, dated 12 October 2006, and the Feniks decision dated 23 August 2007).

On the other hand, as mentioned above, due to the Competition Board's reluctance to micro manage pricing behaviours, complaints on the basis of predatory pricing are frequently dismissed. It has been observed that high standards are set for bringing forward predatory pricing claims.

In line with the EU jurisprudence, price squeezes may amount to a type of abuse in Turkey. The Competition Board is known to closely scrutinise allegations of price squeezing, and recent precedents (see, for example, *Turk Telekom – TT Net* decision, No. 08-65/1055-411, dated 19 November 2008) involved an imposition of monetary fines on the basis of this form of abuse.

Exploitative prices or terms of supply may be deemed an infringement of article 6, although the wording of the law does not contain a specific reference to this concept. The Board condemned excessive or exploitative pricing (see, for example, *Belko* decision No. 01-17/150-39 dated 6 April 2001) by dominant firms in the past.

Refusals to deal and access to essential facilities are the forms of abuses that are frequently brought before the Competition Authority. Therefore, there are various decisions (see, for example, *POAS* decision, No. 01-56/554-130, dated 20 November 2001; *Eti Holding* decision, No. 00-50/533-295, dated 21 December 2000; *AK-Kim* decision No. 03-76/925-389, dated 12 April 2003; and *Çukurova Elektrik* decision, No. 03-72/874-373, dated 10 November 2003) of the Competition Board on this matter.

Although exclusive dealing, non-compete provisions and single branding normally fall under the scope of article 4 of Law No. 4054 which governs restrictive agreements, concerted practices and decisions of trade associations, such practices could also be raised within the context of article 6. On that note, the recently revised version of the Block Exemption Communiqué No. 2002/2 on Vertical Agreements no longer exempts exclusive vertical supply agreements of an undertaking holding a market share above 40 per cent. Thus, a dominant undertaking is now an unlikely candidate to engage in non-compete provisions and single branding arrangements.

Tying and leveraging are among the specific forms of abuse listed in article 6. The enforcement track record indicates no cases where the incumbent firms were fined as a result of tying or leveraging. On the other hand, the Competition Board ordered some behavioural remedies against incumbent telephone and internet operators in some recent cases, in order to have them avoid tying and leveraging (see *TTNET-ADSL* decision No. 09-07/127-38, dated 18 February 2009).

Although limiting output, markets or technical development is one of the specific forms of abuse listed in article 6, according to the enforcement track record, there has not been any case where the incumbent firms were found to infringe article 6 as a result of limiting output, markets or technical development. Furthermore, despite the fact that the issue of intellectual property rights is even more important than ever before, the precedents of the Board do not yet include a finding of an infringement on the basis of abuse of intellectual property rights since this issue has not been brought before

the Turkish Competition Authority.

As aforementioned, the list of specific abuses present in article 6 is not exhaustive and it is very likely that other types of conduct may be deemed as abuse of dominance by the Competition Board. On the other hand, it is worth mentioning that the enforcement track shows that the Competition Board has not been in a position to review any allegation of other forms of abuse, such as strategic capacity construction, predatory product design or product innovation, failure to predisclose new technology, predatory advertising or excessive product differentiation.

Sector-specific abuse

Since Law No. 4054 does not recognise any industry-specific abuses or defences, certain sectoral independent authorities have competence to control dominance in the relevant sectors. For instance, according to the secondary legislation issued by the Turkish Information and Telecommunication Technologies Authority, firms with significant market are prohibited from engaging in discriminatory behaviour between companies seeking access to their network, and unless justified, rejecting requests for access, interconnection or facility-sharing. Similar restrictions and requirement are also regulated for the energy sector. Therefore, although the sector-specific rules and regulations bring about structural market remedies for the effective functioning of the free market, the Competition Authority is the only regulatory body that investigates and condemns abuses of dominance.

Enforcement

The national competition authority for enforcing the competition law in Turkey is the Competition Authority, a legal entity with administrative and financial autonomy. The Competition Authority consists of the Board, presidency and service departments. As the competent body of the Competition Authority, the Board is responsible for, inter alia, investigating and condemning abuses of dominance. The Competition Board has seven members and is seated in Ankara. The service departments consist of five main units. There is a 'sectoral' job definition of each main unit.

The Competition Board has relatively broad investigative powers. It may request all information it deems necessary from all public institutions and organisations, undertakings and trade associations. Officials of these bodies, undertakings and trade associations are obliged to provide the necessary information within the period fixed by the Competition Board. Failure to comply with a decision ordering the production of information or failure to produce on a timely manner may lead to the imposition of a turnover-based fine of 0.1 per cent of the turnover generated in the financial year preceding the date of the fining decision (if this is not calculable, the turnover generated in the financial year nearest to the date of the fining decision will be taken into account). Where incorrect or misleading information has been provided in response to a request for information, the same penalty may be imposed.

Article 15 of the Law No. 4054 also authorises the Competition Board to conduct on-site investigations. Accordingly, the Competition Board can examine the books, paperwork and documents of undertakings and trade associations, and, if need be, take copies of the same; request undertakings and trade associations to provide written or verbal explanations on specific topics; and conduct on-site investigations with regard to any asset of an undertaking.

The Law No. 4054, therefore, grants the Competition Authority with vast authority to conduct dawn raids. A judicial authorisation is obtained by the Competition Board only if the subject undertaking refuses to allow the dawn raid. While the mere wording of the law allows oral testimony to be compelled of employees, case-handlers do allow delaying an answer so long as there is a quick written follow-up correspondence. Therefore, in practice, employees can avoid providing answers on issues that are uncertain to them, provided that a written response is submitted in a mutually agreed timeline. Computer records are fully examined by the experts of the Competition Authority, including deleted items.

Officials conducting an on-site investigation need to be in possession of a deed of authorisation from the Competition Board. The deed of authorisation must specify the subject matter and purpose of the investigation. The inspectors are not entitled to exercise their investigative powers (copying records, recording statements by company staff, etc) in relation to matters that do not fall within the scope of the investigation (ie, that which is written on the deed of authorisation). Refusing to grant the staff of the Competition Authority access to business premises may lead to the imposition of fines.

The minimum amount of fine set for 2012 is 13,591 Turkish lira. It may also lead to the imposition of a periodic daily-based fine of 0.05 per cent of the turnover generated in the financial year preceding the date of the fining decision (if this is not calculable, the turnover generated in the financial year nearest to the date of the fining decision will be taken into account) for each day of the violation.

Sanctions and remedies

The sanctions that could be imposed for abuses of dominance under Law No. 4054 are administrative in nature. In the case of a proven abuse of dominance, the incumbent undertakings concerned shall be (separately) subject to fines of up to 10 per cent of their Turkish turnover generated in the financial year preceding the date of the fining decision (if this is not calculable, the turnover generated in the financial year nearest to the date of the fining decision will be taken into account). Employees or members of the executive bodies of the undertakings or association of undertakings (or both) that had a determining effect on the creation of the violation are also fined up to 5 per cent of fine imposed on the undertaking or association of the undertaking. Law No. 4054 makes reference to article 17 of the Law on Minor Offences and there is also a Regulation on Fines. Accordingly, when calculating the fines the Competition Board takes into consideration factors such as the level of fault and amount of possible damage in the relevant market, the market power of the undertakings within the relevant market, duration and recurrence of the infringement, cooperation or driving role of the undertakings in the infringement, financial power of the undertakings, compliance with the commitments, etc in determining the magnitude of the monetary fine.

Private enforcement

Articles 9 and 27 of Law No. 4054 entitle the Competition Board to order structural or behavioural remedies; that is, to require undertakings to follow a certain method of conduct such as granting access, supplying goods or services or concluding a contract. Failure by a dominant firm to meet the requirements so ordered by the Competition Board would lead it to initiate an investigation, which may or may not result in finding of infringement. The legislation does not explicitly empower the Board to demand performance of a specific obligation such as granting access, supplying goods or services or concluding a contract through a court order.

Availability of damages

A dominance matter is primarily adjudicated by the Competition Board. Enforcement is also supplemented with private lawsuits. Articles 57 et seq of Law No. 4054 entitle any person who is injured in his business or property by reason of anything forbidden in the antitrust laws to sue the violators to recover up to three times their personal damages plus litigation costs and attorney fees. Therefore, Turkey is one of the exceptional jurisdictions where a triple-damages clause exists in the law. In private suits, the incumbent firms are adjudicated before regular courts. Because the triple-damages clause allows litigants to obtain three times their loss as compensation, private antitrust litigations increasingly make their presence felt in the article 6 enforcement arena. Most courts wait for the decision of the Competition Board, and build their own decision on that decision. The majority of private lawsuits in Turkish antitrust enforcement rely on refusal to supply allegations.

Recent enforcement action

The recent enforcement trend of the Turkish Competition Authority showed that it has becoming more and more interested in pricing behaviours of the dominant undertakings, since over the past two years there had been several pre-investigations and investigations launched by the Turkish Competition Authority in relation to this aspect of the competition law principles in Turkey.

The following cases are the most recent landmark decisions regarding abuse of dominance, which were issued by the Turkish Competition Board in 2011.

Turkish Airlines/Pegasus decision (30 December 2011, No. 11-65/1692-599)[1]

The Competition Board initiated an investigation on 8 July 2010, with investigation No. 10-49/923-M, against Türk Hava Yolları A.O. (Turkish Airlines) based on the complaint that was made by Pegasus Hava Taşımacılığı AŞ (Pegasus), a low-cost airline that has the widest flight network in Turkey, alleging that Turkish Airlines abused its dominant position by way of engaging in exclusionary practices with its domestic and international flights departing from Istanbul. The Competition Board's investigation was concluded at its meeting held on 30 December 2011. In its unanimous decision, the Competition Board decided the following:

- Turkish Airlines did not abuse its dominant position by way of engaging in exclusionary practices, within the scope of article 6 of Law No. 4054 on Protection of Competition (Law No. 4054), with its domestic and international flights departing from Istanbul, against the competing undertaking, and for this reason, administrative monetary fine could not be imposed.
- Nonetheless, the Competition Board's decision should be notified to the relevant undertakings and public institutions and organisations in order to preserve a healthy competition milieu in the relevant market, in view of issues such as slot allocations and international bilateral aviation conventions.

The Investigation Committee that was assigned by the Competition Board to conduct the investigation brought forward the following allegations against Turkish Airlines and suggested to the Competition Board that an administrative monetary fine be imposed on Turkish Airlines:

- Turkish Airlines is in a dominant position and conducting predatory pricing. For this reason, it violated article 6 of Law No. 4054.
- In the determination of the geographic market that was used to evaluate dominant position, the Sabiha Gökçen International Airport (SGIA or SAW) and the Istanbul Atatürk Airport (IAA), which are located on two different sides of Istanbul (ie, the Anatolian side and the European side respectively), were substitutable and for this reason, both airports should be considered within the same relevant geographical market.
- In evaluating dominant position, matters such as market shares, status of flag carrier airline, slot allocation, historical rights, the structural junction with the General Directorate of State Airports Authority, horizontal and vertical agreements, hub and spoke facilities, allocation of airport gates, marketing strategies and brand value were taken into consideration.
- By basing on the revenue – cost balances predatory pricing was observed in routes where sales below the average avoidable costs were made.
- It has been alleged that when calculating the administrative monetary fine, a higher rate should be taken into consideration given Turkish Airlines' market position and economic power.

In response to the allegations brought by the Investigation Committee, ELIG principally argued the following in both the written and the oral defences:

- There is neither a demand-side nor a supply-side substitutability between SGIA and IAA.
  - SGIA and IAA are geographically distant from each other in a substantial manner and there are significant differences in terms of the means of transportation to both airports.
  - In flights of same point of arrival, the IAA market can take on relatively higher prices due to demand and the market dynamics. IAA's occupancy rate is higher than SGIA or at par with SGIA. Further, there is no passenger transition observed from IAA to SGIA. The same also holds true for an analysis that is to be made vice versa: with a sustained small but significant price increase that may be observed at SGIA, there will be no passenger transition from SGIA to IAA. As a matter of fact, there is no passenger transition from SGIA to IAA.
  - There are extremely significant differences between the two airports in terms of the flight services rendered to passengers.
  - There are significant differences between the two airports in terms of customer preferences.
  - The two airports have different hinterlands.
  - There are significant differences between the two airports in terms of operational costs.
  - IAA is a central airport for transit flights. The same is not the case for SGIA.
  - There are indisputable differences between the two airports in terms of factors such as number of passengers, the capacity that is used, size, runway facilities and routes.
  - There are significant differences between the two airports in terms of slot allocations.
  - The statements submitted by Turkish Airlines' competitors to the Competition Board made evident that SGIS and IAA are indeed different markets.
  - In a correctly defined relevant market (ie, where points of origin and destinations determined based on the airport rather than city), Turkish Airlines is not in a dominant position given the dynamic nature of the market and the evolution it undergoes.

- None of the criteria that should be sought for the determination of predatory pricing was satisfied.
  - In determining whether prices in the aviation and passenger transportation industries are below the costs, total revenue and profitability, ticket prices, number of flights and occupancy rate at a certain route should be taken into consideration.
  - In cases where the prices of the undertaking which is in a dominant position are higher than those of its competitors and/or the average market, sales made below costs cannot be construed as an infringement.
  - The prerequisite for allegations of predatory pricing is the competitor exiting the market or being under the risk of exiting the market.
  - In order for the arguments on predatory pricing to succeed, the intention to exclude competitors should be justified.
  - The effect on competitors and the market dynamics of sales made below cost in the short term is also restricted in direct proportion. Accordingly, competitors cannot exit the market and a risk to exit the market does not arise.
  - Direct interventions on prices in competition law should always be the last resort.
  - Competition law's aim is not to protect the competitor, but to protect the competition process.

Naturally, it is not possible prior to the publication of the reasoned decision to foresee what the balance induced between the foregoing allegations and defenses was so as to result in a conclusion that there was no infringement. However, it can readily be anticipated that the Competition Board's decision includes a rather insightful evaluation on whether airports located in cities can be automatically substitutable with each other in the airline and passenger transportation industries, on which points of interest must be laid out when making predatory pricing analyses, and on how utmost sensitivity must be shown when intervening with those markets that currently have a competitive vista.

Turkcell decision (No. 11-59/1516-541, dated 24 November 2011)

The Competition Board rendered its decision regarding Turkcell İletişim Hizmetleri AŞ (Turkcell), Turkey's largest GSM operator. The Competition Board had launched an investigation against Turkcell in November 2011 in order to determine whether Turkcell's practices towards its distributors and dealers in the GSM market violated articles 4 and 6 of the Competition Law.

The Competition Board decided that Turkcell was enjoying a dominant position in the GSM services market. Claims regarding Turkcell setting the resale prices of its distributors and dealers were rejected by the Board. However, the Board decided that Turkcell's practices with respect to standardising the decoration, signboards and sales of dealers via vertical agreements and verbal communications, prevented the sale of the products of alternative undertakings. Thus, Turkcell was found as abusing its dominant position by the Competition Board and was imposed a record high fine of 91.1 million Turkish Lira (1.125 per cent of its turnover in 2010). Turkcell's fine is now the highest fine ever imposed by the Competition Board against a single undertaking, amounting to about €40 million. The Competition Board also ordered Turkcell to cease these anti-competitive practices and amend its vertical agreements to comply with the Competition Law.

Notes

1 ELIG acted on behalf of Turkish Airlines in the investigation. For this reason, this chapter comprises the evaluations of the allegations and defences, as ELIG directly is acquainted with, and aims to delineate the central issues which culminated in the final decision, without breaching any obligation that may arise as a result of confidentiality in respect of the investigation. Evaluations set out herein do not include or constitute any expression, finding, inference or evaluation on the Competition Board's reasoned decision regarding the investigation, nor can it be construed to include as such.

Çitlenbik Sokak No. 12
Yıldız Mahallesi
Besiktas
34349 Istanbul
Turkey
Tel: +90 212 327 17 24
Fax: +90 212 327 17 25

Gönenç Gürkaynak
gonenc.gurkaynak@elig.com

Hakan Özgökçen
hakan.ozgokcen@elig.com

www.elig.com

ELIG aims at providing its clients with high-quality legal service in an efficient and business-minded manner. All members of the ELIG team are fluent in English.

ELIG represents corporations, business associations, investment banks, partnerships and individuals in a wide variety of competition law matters.

The firm also collaborates with many international law firms on Turkish competition law matters. In addition to an unparalleled experience in merger control issues, ELIG has a vast experience in defending companies before the Competition Board in all phases of an antitrust investigation. We have in-depth knowledge of representing defendants and complainants in complex antitrust investigations concerning all forms of abuse of dominant position allegations and all other forms of restrictive horizontal and vertical arrangements, including price fixing, retail price maintenance, refusal to supply, territorial restrictions and concerted practice allegations. Furthermore, in addition to a significant antitrust litigation expertise, our firm has considerable expertise in administrative law, and is therefore well equipped to represent clients before the High State Council, both on the merits of a case, and for injunctive relief. ELIG also advises clients on a day-to-day basis concerning business transactions that almost always contain antitrust law issues, including distributorship, licensing, franchising and toll manufacturing.

In 2011, ELIG was involved in more than 35 clearances of merger notifications, more than 17 defence projects in investigations, and over eight appeals at the High State Council; together with approximately 37 antitrust education seminars provided to the employees of clients.

Gönenç Gürkaynak

ELIG Attorneys at Law

Gönenç Gürkaynak holds an LLM degree from Harvard Law School, and he is qualified in Istanbul, New York and England & Wales (currently a non-practising solicitor). Mr Gurkaynak heads the competition law and regulatory department of ELIG, which currently consists of five associates. He has unparalleled experience in Turkish competition law counselling issues with over 10 years of competition law experience, starting with the establishment of the Turkish Competition Authority. He files notifications to and obtains clearances from the Turkish Competition Authority in more than 35 notifications every year, he has led defence teams in several written and oral defences before the Turkish Competition Authority, represented numerous multinational companies and large Turkish entities before Administrative Courts and the High State Court on tens of appeals, in addition to coordinating various worldwide merger notifications, drafting non-compete agreements and clauses, and preparing hundreds of legal memoranda concerning a wide array of Turkish and EC competition law topics. Prior to joining ELIG as a partner more than seven years ago, he worked at the New York, Brussels and (twice) Istanbul offices of White & Case LLP for more than eight years.

M Hakan Özgökçen

ELIG Attorneys at Law

M Hakan Özgökçen holds an LLB degree from Marmara University Law School (2003) and an LLM degree from Istanbul Bilgi University (2010). He is qualified to practice in Istanbul. Mr Özgökçen is a senior associate at the competition law and regulatory department of ELIG. He has been assisting Gönenç Gürkaynak with a vast number of complex matters of Turkish competition law counselling, and also in numerous other fields of Turkish law for more than four years. Mr Özgökçen has also published a number of articles in collaboration with Mr Gürkaynak.

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