



Drawing the Line in the Labour Market: No-Poach Agreements in the Pharmaceutical Sector

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(1) Introduction

The Turkish Competition Board (“**Board**”) concluded its investigation launched against undertakings most of which are operating in the pharmaceutical sector for engaging in no-poach agreements and/or exchange of competitively sensitive information in the labour market.² According to the Turkish Competition Authority’s (“**TCA**”) announcement published on its official website on October 17, 2025, the Board decided to impose administrative monetary fines on 17 undertakings³ amounting to a total of TRY 244,801,302.91 (approx. USD 5.6 million or approx. EUR 4.8 million with current exchange rate), adding up to the monetary fines imposed on undertakings settled with the TCA⁴.

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² The Board’s decision dated 11.09.2025 and numbered 25-34/810-474.

³ The relevant undertakings are Adeka İlaç Sanayi ve Ticaret A.Ş., Amgen İlaç Ticaret Ltd. Şti., Argis İlaç Sanayi ve Ticaret A.Ş., Arven İlaç Sanayi ve Ticaret A.Ş., AstraZeneca İlaç Sanayi ve Ticaret Ltd. Şti., Berko İlaç ve Kimya Sanayi A.Ş., Farmatek İlaç Sanayi Ticaret A.Ş., Helba İlaç İç ve Dış Sanayi Ticaret A.Ş., İlko İlaç Sanayi ve Ticaret A.Ş., Merck İlaç Ecza ve Kimya Ticaret A.Ş., Novartis Sağlık, Gıda ve Tarım Ürünleri Sanayi ve Ticaret A.Ş., Novo Nordisk Sağlık Ürünleri Ticaret Ltd. Şti., Pfizer PFE İlaçları A.Ş., Sanofi İlaç Sanayi ve Ticaret A.Ş., Sanovel İlaç Sanayi ve Ticaret A.Ş., Santa Farma İlaç Sanayi A.Ş. and Servier İlaç ve Araştırma A.Ş.

⁴ The relevant undertakings that concluded the investigation through settlement are GlaxoSmithKline İlaçları Sanayi ve Ticaret A.Ş., Abdi İbrahim İlaç Sanayi ve Ticaret A.Ş., Genveon İlaç Sanayi ve Ticaret A.Ş., Menarini Sağlık ve İlaç Sanayi Ticaret A.Ş., Bilim İlaç Sanayii ve Ticaret A.Ş., and Drogosan İlaçları Sanayi ve Ticaret A.Ş.

Bilim İlaç Sanayi ve Ticaret A.Ş. (“*Bilim İlaç*”) was among the investigated undertakings that settled (“*Settlement Decision*”)⁵. While the Board’s recently published reasoned decisions on other settling undertakings⁶ involved different types of anticompetitive conduct (such as future-looking information exchange on employment conditions), the Settlement Decision is of particular importance as it reflects the Board’s approach in classifying standalone no-poach arrangements between competitors as a cartel-like conduct. Accordingly, this article aims to unfold the Board’s findings and assessments in the Settlement Decision, with a side focus on the Board’s further findings in its recently published reasoned decisions concerning other settling undertakings within the scope of the investigation.

(2) Background

Following a preliminary investigation covering several undertakings mainly operating in the pharmaceutical sector and one association of undertaking (AIFD - *Association of Research-Based Pharmaceutical Companies*), the Board initiated a full-fledged investigation to determine whether undertakings mainly active in the pharmaceutical sector violated Law No. 4054 on the Protection of Competition (“*Law No.4054*”) by engaging in no-poach arrangements to restrict employee mobility, as well as exchanging competitively sensitive information concerning employment conditions.

While the investigation originally included several undertakings mostly operating in the pharmaceutical sector, during the course of the investigation, the scope of the TCA’s review was expanded to cover other undertakings in the sector based on the information and documents obtained during the on-site inspections conducted.

Notably, during the early stages of the investigation process, Bilim İlaç submitted an application for active cooperation as per the Regulation on Active Cooperation for Detecting Cartels. The Board rejected Bilim İlaç’s active cooperation application on the grounds that the relevant conditions for active cooperation were not fulfilled.

⁵ The Board’s *Bilim İlaç* decision dated 15.08.2024 and numbered 24-33/782-329.

⁶ The Board’s *Abdi İbrahim* decision dated 28.03.2024 and numbered 24-15/319-131; *Drogsan* decision dated 15.08.2024 and numbered 24-33/807-341; *Genveon* decision dated 31.10.2024 and numbered 24-44/1029-439; *Menarini* decision dated 31.10.2024 and numbered 24-44/1030-440; and *GSK* decision dated 21.03.2024 and numbered 24-14/270-110.

(3) The Board's Findings in the Decision

The Board's assessment in the Bilim İlaç Decision relied on a total of 56 separate findings obtained during on-site inspections, including internal correspondence of employees working at HR departments, e-mails, WhatsApp and Microsoft Teams correspondence, recruitment evaluation notes and internal "prohibited" list of firms from which employee transfer is restricted.

Concerning the communications involving Sanovel İlaç San. ve Tic. A.Ş. ("**Sanovel**") and Arven İlaç San. ve Tic. A.Ş. ("**Arven**") (which are currently operating within the same economic unit), the TCA's findings relate to communications indicating that restriction of employee transfers were subject to a mutual understanding between Bilim İlaç and Sanovel/Arven. Indeed, in multiple communication evidence expanding through 2015 to 2022, it was explicitly stated that Bilim İlaç was among the undertakings from which recruitment could not be made.

More specifically, internal communications of Sanovel/Arven referred to Bilim İlaç in the context of "*firms from which no transfer is made*" and "*off-limit firms*". The Board found that the relevant correspondence demonstrated a deliberate practice of refraining from hiring individuals actively employed by Bilim İlaç, by stating "*due to the gentlemen's agreement with Bilim İlaç*" and "*we are unfortunately not able to consider active employees of Bilim İlaç*". Notably, an internal correspondence dated December 6, 2022 between Arven employees explicitly state that "*Bilim İlaç has now been removed from our prohibited company status. Ms. (...) has informed us that we can hire on the condition that we proceed cautiously.*". Although none of the identified correspondence included any clear direct communication between Bilim İlaç and Sanovel/Arven, the Board concluded that these communications are sufficient to demonstrate the existence of a no-poach agreement between Bilim İlaç and Sanovel/Arven.

Further, the most extensive body of evidence concerns the relationship between Bilim İlaç and Abdi İbrahim İlaç Sanayi ve Ticaret Anonim Şirketi ("**Abdi İbrahim**"). The relevant findings contain numerous internal correspondence explicitly referring to the existence of a gentlemen's agreement between Bilim İlaç and Abdi İbrahim. The evidentiary record spans from 2017 to 2023 and includes references to internal correspondence across different departments and communication channels.

For instance, one internal communication states that “we [Abdi İbrahim] have a gentlemen’s agreement with Bilim İlaç; if the candidate is actively employed, do not share it with the manager”. This shows that if the candidate was actively employed at Bilim İlaç, then the matter should not even be escalated internally. Another communication confirms that “Unfortunately, we cannot consider the candidate due to a gentleman’s agreement with Bilim İlaç. The candidate appears to have not left [Bilim İlaç]; but we would like to contact [them] if otherwise”. In addition, Bilim İlaç’s own internal document titled “Firms Not Eligible for Transfer in 2023” listed Abdi İbrahim among the restricted undertakings from which employee transfer is not allowed.

The evidence relied upon in the Settlement Decision also includes internal correspondence of other undertakings (such as Adeka İlaç Sanayi ve Ticaret A.Ş. (“*Adeka*”), Genveon İlaç San. ve Tic. A.Ş. (“*Genveon*”) and Santa Farma İlaç Sanayi Anonim Sirketi (“*Santa Farma*”)), with similar context illustrating restricted mobility of employees. Notably, in an external communication between a Bilim İlaç employee and an employee of GlaxoSmithKline İlaçları Sanayi ve Ticaret A.Ş. (“*GSK*”), Bilim İlaç employee states that Abdi İbrahim representatives called him/her for recruitment following a prior job application, but they had to cancel the process by stating that “we cannot hire because we made a gentlemen’s agreement [with Bilim İlaç]”.

(4) The Board’s Assessment: Theoretical Framework and Cartel Characterisation

Before reaching a conclusion, the Settlement Decision sets out a detailed theoretical framework on no-poach arrangements and explains why such conduct falls within the scope of Article 4 of Law No.4054. Following from its settled case law involving similar findings in the labour market⁷, the Settlement Decision reiterates that labour (human force) constitutes one of the most important inputs for undertakings and that restrictions on employee mobility may lead to the suppression of wages and other employment conditions, as well as spill-over risks for coordination in other competitive parameters. In this context, the Decision emphasises that

⁷ For example, the Board’s *Bfit* decision dated 07.02.2019 and numbered 19-06/64-27; *Container Logistics* decision dated 02.01.2020 and numbered 20-01/3-2; *İzmir Container* decision dated 04.03.2021 and numbered 21-11/155-64; *Private Hospitals* decision dated 24.02.2022 and numbered 22-10/152-62. The Decision also refers to U.S. Department of Justice’s proceedings in which no-poach agreements were pursued as serious antitrust infringements, often considered as a traditional hard-core cartel (i.e., *United States v. Adobe Sys. Inc.*, No. 10-CV-01629; *United States v. Lucasfilm Ltd.*, No. 10-CV-02220).

competition for labour may exist independently of the competition in output markets (the relevant market(s) in which the products/services are offered by the undertakings), and, for the purposes of no-poach agreements, the decisive factor is whether undertakings compete for the employment of employees with similar qualifications.

Against this background, the Settlement Decision characterizes no-poach agreements between undertakings competing for employees as *by object* restrictions. The Board stated that, where competition for the employment of employees with similar qualifications exists, bilateral arrangements restricting employee transfers eliminate competition over a key input and thus lead to cartel-like conduct on the buyer-side (input) of the market.

Building on this theoretical framework, and upon assessing the relevant correspondence in the case file, the Board concluded that Bilim İlaç is engaged in no-poach agreements aimed at preventing the recruitment of employees, separately with Adeka, Genveon, Sanfa Farma, Abdi İbrahim, and Sanovel. Accordingly, by characterising such no-poach agreements as a cartel behaviour and a *by object* restriction without the need to conduct a separate effects analysis, the Board determined that Bilim İlaç has restricted competition in the labour market by not hiring its competitors' employees and thus violated Article 4 of Law No. 4054. In terms of administrative monetary fines, the Board decided to increase the base fine by onefold due to the duration of the infringement exceeding five years, and applied a 25% reduction as per the settlement procedure, ultimately resulting in an administrative monetary fine of TRY 155,488,332.29 (approx. USD 3.5 million or approx. EUR 3 million with current Exchange rate).

(5) Other Related Settlement Decisions

As detailed above, the Decision was adopted as part of a broader sector-wide investigation concerning the pharmaceutical industry. In addition to Bilim İlaç, the Board concluded its investigation against Abdi İbrahim, Genveon, Menarini, GSK and Drogan İlaçları San. ve Tic. A.Ş. through settlement. Although these decisions concern similar types of anticompetitive conducts in the labour market, the scope and nature of the findings differ across undertakings.

Importantly, some of these settlement decisions also include the Board's infringement findings based on the exchange of competitively sensitive information in the labour market. For instance,

in its Abdi İbrahim⁸ and GSK⁹ decisions, the Board examined not only no-poaching arrangements but also exchanges of competitively sensitive information relating employees' side benefits. The evidence included in these decisions also concerned mainly internal correspondence regarding future-looking information on employee benefits such as private health insurance coverages. In this sense, the Board's assessment in these decisions extended beyond no-poach agreements and further addressed exchange of competitively sensitive information in the labour market as a stand-alone conduct violating Article 4 of Law No.4054.

In addition, in its Genveon decision¹⁰, the Board examined no-poaching agreements in a transactional context under the ancillary restraints doctrine. Following Genveon's acquisition of a production plant and relevant personnel of Sandoz İlaç Sanayi ve Ticaret A.Ş. ("**Sandoz**") (which was then controlled by Novartis) on January 2020, the Board assessed whether the findings obtained in the file concerning Novartis and Genveon arose due to a no-poach agreement, and whether the transactional arrangement between the parties could be considered as an ancillary restraint directly related to and necessary for the implementation of the transaction. Ultimately, the Board did not identify any evidence that the transfer of any employee other than those working in the relevant production facility was prevented, or that the transfer of employees from Novartis/Sandoz to Genveon was prevented. Accordingly, the Board decided the communication regarding employee transfers between Genveon and Novartis to be considered as an ancillary restraint.

Taken together, these related settlement decisions demonstrate that while the Board consistently classifies standalone no-poach agreements as a cartel conduct in the labour market, it also distinguishes between pure no-poach arrangements, and competitively sensitive information exchange practices concerning the labour market.

(6) Conclusion

All in all, the TCA's approach in the investigation confirms its increasingly strict standpoint that no-poach agreements between undertakings constitute cartel conduct under Article 4 of Law No. 4054. By characterising standalone no-poach arrangements as *by object* restrictions,

⁸ The Board's *Abdi İbrahim* decision dated 28.03.2024 and numbered 24-15/319-131.

⁹ The Board's *GSK* decision dated 21.03.2024 and numbered 24-14/270-110.

¹⁰ The Board's *Genveon* decision dated 31.10.2024 and numbered 24-44/1029-439.

the Board once again aligned this decision with its earlier precedents in the labour market, treating restrictions on employee mobility as equivalent to traditional input-side cartels. The TCA's reasoning clearly reflects that labour is a critical competitive parameter in the pharmaceutical industry and that agreements restricting competition for employees directly distort market dynamics, without the need for a separate effects analysis.

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