



Turkish Competition Board Clears Ambarlı Pilotage Privatization: Key Takeaways on Regulated Monopoly Services

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1. Introduction

The Turkish Competition Board (“**Board**”) issued its decision concerning the final notification for the transfer of the operating right for pilotage services in the Ambarlı Regional Service Area (“**Ambarlı**”)² through a tender process (“**Decision**”)³. The notification was made by the Ministry of Transport and Infrastructure, Directorate General of Maritime Affairs, and concerned the privatization of the operating right for pilotage services in Ambarlı under the Regulation on Pilotage and Towage Services published in the Official Gazette on 11 February 2025 (“**2025 Regulation**”).

The transaction concerned the transfer of the operating right for pilotage services in Ambarlı for 20 years. Following the open bidding process, Marin Römorkör ve Kılavuzluk AŞ (“**MARINTUG**”) submitted the highest valid bid, followed by Marmara Kılavuzluk AŞ (“**MARKAŞ**”) and Deniz Kılavuzluk AŞ (“**DEKAŞ**”) as the second and third highest bidders.

Before its substantive assessment, the Board requested additional information from the Directorate General of Maritime Affairs, MARINTUG and MARKAŞ. The review was also shaped by a confidential third-party submission opposing the Board’s clearance of the transfer of the operating right for pilotage services in the Ambarlı to MARINTUG and MARKAŞ. The submission argued that MARINTUG’s shareholding structure included undertakings active in maritime transport, ship chartering, agency services and port operations, creating vertical links with adjacent maritime markets and this carried risks of preferential treatment, discrimination,

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² Ambarlı Regional Service Area refers to a maritime service area within the administrative boundaries of the Ambarlı Regional Port Authority, as defined under the relevant pilotage and towage regulations.

³ Board’s decision dated 31.12.2025 and numbered 25-50/1230-699.

cross-subsidization, and harm to the independence and impartiality of pilotage services. Similar concerns were raised for MARKAŞ, which was alleged to bring together port operators or undertakings providing services to port operators in Ambarlı, thereby increasing risks of coordination, information exchange and concerted practices between ports. The Board assessed these objections within the final notification report dated 30 December 2025.

The Board ultimately concluded that the transfer of the operating right to any of MARINTUG, MARKAŞ or DEKAŞ would not significantly impede effective competition within the meaning of Article 7 of Law No. 4054, in particular by creating or strengthening a dominant position, and therefore decided that there was no objection to granting authorization for the transaction.

This article examines the Board's approach to the relevant market, the applicable legal framework, the potential horizontal and vertical concerns, and the practical implications of the Decision for privatizations and regulated infrastructure markets.

2. The Board's Assessment of the Relevant Market

The Board first framed the case by reference to the nature and regulatory setting of pilotage services. It described pilotage as an advisory service provided by licensed pilots to captains during navigation and manoeuvring, particularly in technically challenging areas, and that it serves not only shipowners but also broader public interests linked to life, property, environmental and port safety. Although the transaction concerned pilotage services, the Board also addressed towage services, noting that pilotage and towage are technically interconnected and both are critical to the safe and efficient entry, exit and manoeuvring of vessels.

The regulatory framework was central to the Board's assessment. Pilotage and towage services are regulated and supervised by the Ministry, and under the 2025 Regulation, the Ministry may transfer the operating rights for these services in regional service areas through tenders for a period not exceeding 20 years. Importantly, the applicable rules allow only one pilotage organization to be authorized in each regional service area, while also preventing a pilotage operator from providing towage services in the same area. This meant that the service was structurally designed as a regulated monopoly within each regional service area.

Against this background, the Board defined the relevant product market as "*pilotage services*". In doing so, distinguishing it from towage as a human-based guidance and advisory service rather than an equipment- and vessel-power-based physical assistance service requiring higher

investment. The Board also considered its previous decisional practice⁴, where pilotage and towage had been assessed as separate relevant product markets.

As for the geographic market, the Board noted that pilotage and towage services may only be provided within the authorized service areas. Consistent with its prior decisional practice, it considered that each service area may constitute a separate geographic market and defined the relevant geographic market as the “*Ambarlı Regional Service Area*”.

The Board assessed the transaction under Communiqué No. 2013/2, found that the transfer of the operating right for pilotage services in Ambarlı fell within the privatization control regime, triggering preliminary notification as the turnover threshold was exceeded. At the final stage, each potential acquirer was assessed separately under Article 7 of Law No. 4054.

3. The Board’s Substantive Assessment

A. Competition in the Market Versus Competition for the Market

A key feature of the Decision is the Board’s recognition that pilotage and towage services are not ordinary competitive services. Given safety concerns and regulatory restrictions, competition during service provision is limited once the operating right is awarded. The Board observed that in regional service areas where a single undertaking provides the service due to administrative and legal rules, there is no meaningful competition during service provision.

Instead, the main competitive parameter is the tender process. According to the Board, undertakings compete primarily at the stage of obtaining the operating right, including by satisfying the administrative, financial and technical requirements. The Board also noted that tariffs are determined by the administration as ceiling prices, while the public share payable to the administration is calculated based on the applicable tariff even if a lower fee is charged.

Since pilotage in Ambarlı would remain a single-operator service, the key question was whether the acquirer’s identity, ownership structure or adjacent activities could create horizontal, vertical, foreclosure, discrimination, tying or coordination concerns.

B. MARINTUG: No Horizontal Change and Limited Vertical Risk

⁴ The Board’s decisions dated 15.07.2004 and numbered 04-47/616-153, and dated 14.05.2007 and numbered 07-40/444-169.

MARINTUG was the highest bidder in the tender. The Board noted that MARINTUG had previously been active in towage services and later began providing pilotage services, including in Ambarlı. MARINTUG had 67 shareholders, none of which had control over the company, and the company's decisions were taken by its board of directors.

From a horizontal perspective, the Board found no competition concern. MARINTUG already provided pilotage services as a monopoly in Ambarlı, and the transaction would not change the market structure since the service would continue to be provided by a single operator. It also emphasized that pilotage services are provided within defined service areas and undertakings providing pilotage services in one area do not compete with undertakings in other service areas.

The Board then assessed possible vertical concerns, noting that while MARINTUG itself was not directly active in port operation, terminal and container services, maritime transport, logistics, cargo handling or ship agency services, certain shareholders were active in these or related areas, including MARPORT in Ambarlı as part of the Arkas Group, one of its shareholders.

The Board nevertheless found that MARINTUG could not be treated as a single economic unit with any individual shareholder, since no shareholder had sole or joint control over MARINTUG. The Board therefore found it unrealistic to conclude that MARINTUG could use the pilotage service in favour of one shareholder and against other shareholders or third parties.

The Board also relied on the 2025 Regulation, which requires pilotage and towage services to be provided independently, impartially, safely and without discrimination, while prohibiting unfair competition and unlawful benefit. It further noted that the administration may supervise service provision and impose administrative fines for deficient or discriminatory practices.

In light of MARINTUG's fragmented shareholding structure, the absence of shareholder control, the continuation of the existing factual service provision structure, and the regulatory safeguards against discrimination, the Board concluded that the transfer of the operating right to MARINTUG would not significantly impede effective competition.

C. MARKAŞ: Vertical Links, Foreclosure Risks and Coordination Concerns

The Board's assessment of MARKAŞ was the most detailed part of the Decision since MARKAŞ was jointly controlled by Ambarlı Kılavuzluk AŞ (“AKAŞ”) and İstanbul Kılavuzluk

AŞ (“*İKDAŞ*”), and AKAŞ’s shareholders included undertakings active in port services in Ambarlı, such as KUMPORT, AKÇANSA, MARDAŞ, MARPORT and LİMAR.

The Board first found that the transaction did not raise horizontal concerns as pilotage services were already provided as a monopoly and would remain so after the transaction; therefore, the market structure would not change horizontally and only the operator’s identity could change.

The Board then examined vertical overlaps between pilotage services and other port services, noting that port services cover vessel- and cargo-related services such as towage, mooring, cargo handling, terminal services, storage, security and equipment rental. On this basis, it found that pilotage services could be vertically related to cargo handling and other port services. Since AKAŞ’s shareholders provided container terminal operation, general cargo terminal operation, loading/unloading, storage, terminal services and logistics support services in Ambarlı Port Area, the Board found that the relevant product and geographic markets overlapped vertically.

At the same time, the Board emphasized that this vertical overlap was indirect. The relevant port operators were AKAŞ shareholders, which jointly controlled MARKAŞ with İKDAŞ, while AKAŞ itself was not controlled solely or jointly by any single shareholder. Therefore, it considered that MARKAŞ could not be treated as a single economic unit with any AKAŞ shareholder, and that it would not be appropriate to assume that MARKAŞ could use the pilotage service in favour of a single shareholder and against other shareholders or third parties.

The Board nevertheless identified several theoretical risks arising from related ownership structures between pilotage and port services, including preferential treatment for affiliated ports, delays or reduced service quality for rival ports, tying pilotage with port services, leveraging pilotage monopoly power into adjacent markets, misuse of operational information, misleading conduct regarding rival ports, and coordination risks through access to commercially sensitive information.

The Board then examined refusal to supply and discriminatory treatment concerns. Ambarlı included various ports and facilities, including container, general cargo, dry bulk, Ro-Ro, liquid cargo, marina and passenger facilities. It found that a significant portion of commercial ports receiving pilotage services in the region were operated by AKAŞ shareholders, while the other facilities were largely not direct competitors of those shareholders because of their different activity types and operational characteristics.

Accordingly, the Board concluded that while refusal to provide pilotage or discriminatory treatment could theoretically arise, the practical risk was limited, as non-shareholder facilities accounted for a very small share of vessel traffic and turnover and mostly did not directly compete with the container and general cargo businesses of MARKAŞ's indirect shareholders.

The Board also relied on the regulatory framework, noting that port authorities decide which vessels may enter ports and that pilots influence berthing decisions only for safety-related reasons. It further emphasized that the 2025 Regulation prohibits discriminatory or unfair use of pilotage services and allows the administration to supervise and sanction service providers. On this basis, the Board found that refusal to supply or discriminatory treatment would lack economic rationale and would, in any event, be constrained by the applicable regulations.

The Board also assessed tying and bundling concerns, referring to New Zealand's Nelson Port precedent⁵, where the bundling towage and pilotage services and related discounting practices were found to be restrictive. However, it found that such a risk was limited in this case, as the 2025 Regulation requires pilotage services to be provided in the public interest and under public responsibility, meaning that conditioning or packaging pilotage with other port services would fall outside the regulatory framework and could separately be reviewed under Law No. 4054.

Finally, the Board assessed whether MARKAŞ's indirect shareholders could gain access to competitively sensitive information through pilotage services. It acknowledged that authorized pilotage organizations may access certain data concerning vessels calling at ports, such as currents, traffic density, safe manoeuvring windows, berthing and unberthing times, weather-related berth safety, vessel types, load types and line operators.

However, the Board considered this information largely technical and operational, rather than competitively sensitive information on capacity, pricing, investments or market positioning. Although access to such information by port operators under common ownership could reduce competitive uncertainty, it found that the information obtained through pilotage was generally necessary for safe navigation and the 2025 Regulation prohibited its use for the benefit of MARKAŞ's indirect shareholders.

The Board added that if information beyond what is technically necessary for pilotage were used by MARKAŞ's indirect shareholders to facilitate coordination between competitors under

⁵ Commerce Commission (1995), 'Commission wins \$500,000 penalties against Port Nelson Limited', July.

Article 4 of Law No. 4054, such conduct could be separately reviewed and sanctioned under Law No. 4054, irrespective of the administration’s sector-specific oversight.

Overall, the Board found that the transfer of the operating right to MARKAŞ would not raise horizontal concerns, the vertical overlap was indirect, that refusal to supply or discrimination lacked economic rationale in the concrete market structure, the regulatory framework mitigated tying and discrimination risks, and coordination concerns based on information access were limited and could be addressed under Law No. 4054 if they materialized.

D. DEKAŞ: No Relevant Horizontal or Vertical Overlap

The Board noted that DEKAŞ was established in 1996 by 122 former Türkiye Deniz İşletmeleri pilots under authorization, but that its pilotage activities ceased after participation in the establishment of Anadolu Kılavuzluk AŞ (“*ANKAŞ*”) in 2019, after which DEKAŞ’s pilots were employed by ANKAŞ and its pilotage activities ceased. It also noted that DEKAŞ’s revenues since 2019 consisted of rental and dividend income, and that its shareholding in ALİDAŞ, active in port operation, pilotage and towage in Alanya, did not confer control.

The Board concluded that, because each pilotage service area is assessed as a separate geographic market, DEKAŞ had no activity that would create a horizontal or vertical overlap with the pilotage services to be provided in Ambarlı. Accordingly, the Board found that the transfer of the operating right to DEKAŞ would not significantly impede effective competition, in particular by creating or strengthening a dominant position.

In its final assessment, the Board concluded that the transfer of the operating right for pilotage services in Ambarlı to any of MARINTUG, MARKAŞ or DEKAŞ would not significantly impede effective competition within the meaning of Article 7 of Law No. 4054. Accordingly, it found no objection to authorizing the transaction in respect of each of the potential acquirers.

4. Conclusion

The Decision is significant since it shows the Board’s approach to privatizations in regulated markets, where competition mainly occurs at the tender stage rather than during service provision. Although pilotage services are safety-critical, regulated and typically provided by a single operator in each regional service area, the Board still conducted a detailed Article 7 assessment of the bidders’ ownership structures and adjacent activities, looking beyond their formal identities to assess whether their direct or indirect shareholders’ activities in port

operations, terminal services, logistics, cargo handling and agency services could create foreclosure, discrimination, tying or coordination risks.

At the same time, the Decision confirms that ownership links with adjacent markets are not, in themselves, sufficient to block a privatization. The Board relied on the absence of individual shareholder control, the indirect nature of the vertical links, Ambarlı's specific market structure, the limited rationale for exclusionary conduct, and regulatory safeguards, impartiality, non-discrimination and public-interest service provision. The Decision therefore highlights that regulated monopoly rights should be assessed not only by their legal exclusivity, but also by the wider commercial ecosystem of the operator and its shareholders, while preserving future scrutiny under Law No. 4054 if discrimination, tying or coordination risks materialize.

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(First published by Mondaq on June 25, 2026)