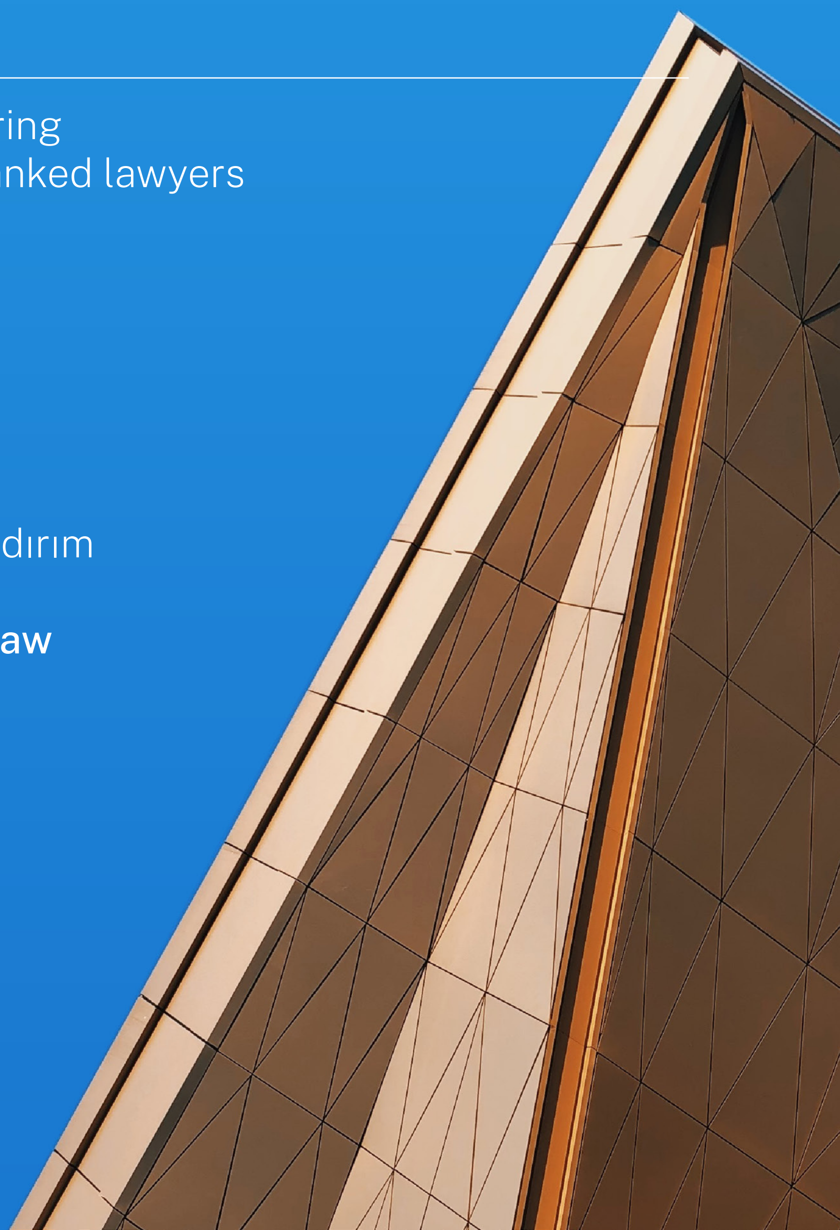
Chambers AND PARTNERS

CHAMBERS GLOBAL PRACTICE GUIDES

Merger Control 2026

Definitive global law guides offering comparative analysis from top-ranked lawyers



Türkiye: Law and Practice & Trends and Developments

Gönenç Gürkaynak, K Korhan Yıldırım and Görkem Yardım
ELIG Gürkaynak Attorneys-at-Law

TÜRKIYE

Law and Practice

Contributed by:
Gönenç Gürkaynak, K Korhan Yıldırım and Görkem Yardım
ELIG Gürkaynak Attorneys-at-Law

Contents

ELIG Gürkaynak Attorneys-at-Law is a leading law firm comprising 95 lawyers based in Istanbul. Founded in 2005, the firm combines a solid knowledge of Turkish law with a business-minded approach to developing legal solutions that meet the ever-changing needs of clients in their international and domestic operations. The competition law and regulatory department is led by founding partner Gönenç Gürkaynak, along with seven other partners, eight counsel and 42 associates. In addition to its unparalleled experience in merger control issues, ELIG Gürkaynak has vast experience of defending companies before the Turkish Competition Board in all phases of antitrust investigations, abuse of dominant position cases and leniency applications, as well as before courts on issues of private enforcement of competition law and in appeals against administrative decisions by the Turkish Competition Authority. ELIG Gürkaynak represents multinational corporations, business associations, investment banks, partnerships and individuals in the widest variety of competition law matters, while also collaborating with many international law firms.

Authors

Gönenç Gürkaynak is the founding partner of ELIG Gürkaynak Attorneys-at-Law and heads its competition law and regulatory department. He graduated from Ankara University Faculty of Law, and received his LLM from Harvard Law School and his PhD in Law from UCL Faculty of Laws. He has nealy 30 years of competition law experience. In addition to his continuing private practice as an attorney, Gönenç is a professor of practice at UCL Faculty of Laws, and a senior research fellow at the Center for Law, Economics & Society at UCL Faculty of Laws. Gönenç frequently speaks at international conferences on competition law matters. He has authored five books and published more than 80 academic articles in refereed international law journals.

K Korhan Yıldırım is a partner in the competition law and regulatory department at ELIG Gürkaynak Attorneys-at-Law. He has more than 18 years of extensive experience in all areas of competition law, including cartel agreements, abuse of dominance, concentrations and joint ventures. Korhan has represented various multinational and national companies before the Turkish Competition Authority, administrative courts and the High State Court. He has given numerous legal opinions and provided training in relation to compliance with competition law rules. Korhan has also authored and co-authored many articles on competition law and merger control matters, and is a frequent speaker at various conferences and symposia.

Görkem Yardım is a counsel at ELIG Gürkaynak Attorneys-at-Law, having joined the firm in 2014. Görkem graduated from Ihsan Doğramacı Bilkent University's Faculty of Law in 2011 and was admitted to the Ankara Bar in 2012 (later transferring to the Istanbul Bar). He obtained his first LLM degree in law and economics from Ihsan Doğramacı Bilkent University in 2013 before obtaining his second LLM degree from King's College London in 2014. Görkem has extensive experience in merger and acquisition filings, competition law compliance matters, and investigations conducted by the Turkish Competition Authority.

ELIG Gürkaynak Attorneys-at-Law

Çitlenbik Sokak No 12
Yıldız Mahallesi 34349
Beşiktaş
İstanbul
Türkiye

Tel: +90 212 327 17 24
Fax: +90 212 327 17 25
Email: gonenc.gurkaynak@elig.com
Web: www.elig.com

1. Legislation and Enforcing Authorities

1.1 Merger Control Legislation

Article 7 of Law No 4054 on Protection of Competition (the "Competition Law") governs M&A, in particular, and mandates that the Turkish Competition Board (the "Board") regulate and establish a merger control regime. Accordingly, certain M&A are subject to Turkish Competition Authority (TCA) review and approval in order to gain validity.

The amendment to the Competition Law, Law No 7246 (the "Amendment Law"), was published in the Official Gazette and entered into force on 24 June 2020.

Furthermore, the TCA has introduced significant changes to the rules applicable to transactions that are subject to the approval of the Board. These changes entered into force with Communiqué No 2026/2 amending Communiqué No 2010/4 on the Mergers and Acquisitions Subject to the Approval of the Competition Board, published in the Official Gazette on 11 February 2026 (the "Amendment Communiqué").

Following the changes to the Turkish merger control rules that entered into force on 11 February 2026, the TCA also introduced amendments to its merger control guidelines in line with the updated version of the Amended Communiqué No 2010/4. In this respect, the guidelines illustrating the amendments introduced pursuant to the Amendment Communiqué No 2010/4 were published on the TCA's website on 4 May 2026. The updated guidelines and the principal amendments introduced thereunder are as follows.

Guidelines on Cases Considered as Mergers or Acquisitions and the Concept of Control

The Amended Guidelines on Cases Considered as Mergers or Acquisitions and the Concept of Control (the "Amended Control Guidelines") have clarified that the provision set out under Article 8 (5) of the Amended Communiqué No 2010/4, which stipulates that two or more transactions carried out within a three-year period between the same persons or parties, or by the same undertaking in the same relevant product market, shall be considered as a single transaction for the purpose of turnover calculations, also applies to transactions concerning the establishment of joint ventures.

Guidelines on the Undertaking Concerned, Turnover and Ancillary Restraints in Mergers and Acquisitions

With the Amended Guidelines on the Undertaking Concerned, Turnover and Ancillary Restraints in Mergers and Acquisitions (the "Amended Turnover Guidelines"), in parallel with the amendments introduced to the Amended Communiqué No 2010/4, changes have been made regarding the definition of transaction party and the updated notification thresholds.

Additional explanations and examples have been provided regarding the definition of undertaking concerned in the context of acquisitions of joint control for reviews concerning joint ventures.

It has been clarified that Turkish turnover should also be included in the calculation of worldwide turnover.

Turnover calculation for technology undertakings has been specified.

Clarification has been provided as to when the three-year period set out under Article 8 (5) of the Amended Communiqué No 2010/4 commences.

Guidelines on the Assessment of Horizontal Mergers and Acquisitions/Guidelines on the Assessment of Non-Horizontal Mergers and Acquisitions

The principles regarding the assessment of the co-ordinated effects that may arise between parent undertakings due to a joint venture have been explained in the Amended Guidelines on the Assessment of Horizontal Mergers and Acquisitions (the "Amended Guidelines on Horizontal Mergers") and the Guidelines on the Assessment of Non-Horizontal Mergers and Acquisitions (the "Guidelines on Non-Horizontal Mergers").

1.2 Legislation Relating to Particular Sectors

No other legislation is applicable to foreign transactions or investment in Türkiye as far as the merger control rules are concerned. However, there are specific merger control rules for mergers concerning banks, privatisation tenders and certain other sectors.

Banks

Banking Law No 5411 (the "Banking Law") provides that mergers in the banking industry fall outside the merger control regime, subject to the condition that the sectoral share of the total assets of the banks does not exceed 20%. The Competition Law does not apply to foreign acquiring banks already operating in Türkiye if the conditions for the application of the Banking Law exception are fulfilled.

Privatisation Tenders

Amendment Communiqué No 2026/3 on the Amendment of Communiqué No 2013/2 on the Procedures and Principles to be Pursued in Pre-Notification and Authorisation Applications to be Filed with the Turkish Competition Authority in order for Acquisitions via Privatisation to Become Legally Valid ("Amendment Communiqué No 2026/3") prescribes an additional pre-notification process. This only applies to privatisations in which the turnover of the undertaking or asset or unit intended for production of goods or services to be privatised exceeds TRY1 billion (approximately EUR22.4 million or USD25.3 million). For this calculation, sales to public institutions and organisations, including local governments, made on the basis of a legislative provision should not be taken into account. If the threshold is met, a pre-notification should be filed with the TCA before the public announcement of the tender specifications. The Board will issue an opinion that will serve as the basis for the preparation of the tender specifications. This opinion does not mean, however, that the transaction is cleared. Following the tender, the winning bidder will still have to make a merger filing and obtain approval before the Privatisation Administration's decision on the final acquisition.

Other Sector-Specific Rules

There are various sector-specific rules alongside the merger control rules for sectors such as media, telecommunications, energy and petrochemicals. By way of example, in the energy sector, approval from the relevant authority is required for share transfers of more than 10% (5% in the case of publicly traded company shares) in an electricity or natural gas company. In the broadcasting sector, Law No 6112 states that a transfer of shares in a joint stock company holding a broadcasting licence should be notified to the Turkish Radio and Television Supreme Council.

1.3 Enforcement Authorities

The relevant legislation is enforced by the TCA, which is a legal entity with administrative and financial autonomy consisting of the Board, the presidency and service departments. The Board is the competent decision-making body of the TCA and is responsible for, inter alia, reviewing and resolving M&A notifications. The Board consists of seven members and is located in Ankara.

The main service unit comprises:

- six supervision and enforcement departments;
- a department of decisions;
- an economic analysis and research department;
- an information technologies department;
- an external relations and competition advocacy department;

- a strategy development department; and
- a cartel on-site inspection support division.

There is a "sectoral" job definition of each supervision and enforcement department.

Other authorities may get involved in the review of mergers in certain sectors. By way of example, the TCA is statutorily required to get the opinion of the Turkish Information and Communication Technologies Authority for mergers concerning the telecommunications sector and must obtain the opinion of the Turkish Energy Market Regulatory Authority in energy mergers.

2. Jurisdiction

2.1 Notification

Notification Thresholds

As of 11 February 2026, a transaction will be notifiable if one of the below turnover thresholds is met (amended version of Article 7 (1) of Communiqué No 2010/4).

- For all transactions:
  - (a) the aggregate turnover of the transaction parties that is generated in Türkiye exceeds TRY3 billion (approximately EUR67.2 million or USD76 million); and
  - (b) at least two of the transaction parties each has a turnover in Türkiye exceeding TRY1 billion (approximately EUR22.4 million or USD25.3 million).
- For acquisition transactions:
  - (a) the Turkish turnover of the transferred assets or businesses exceeds TRY1 billion (approximately EUR22.4 million or USD25.3 million); and
  - (b) the worldwide turnover of at least one of the other transaction parties exceeds TRY9 billion (approximately EUR201.6 million or USD228.2 million).
- For merger transactions:
  - (a) the Turkish turnover of at least one of the parties exceeds TRY1 billion (approximately EUR22.4 million or USD25.3 million); and
  - (b) the worldwide turnover of at least one of the other transaction parties exceeds TRY9 billion (approximately EUR201.6 million or USD228.2 million).

That being said, Article 7 (2) of Communiqué No 2010/4 indicates that the "TRY1 billion Turkish turnover thresholds" under Articles 7 (a) and 7 (b) will apply as "TRY250 million Turkish turnover thresholds" for transactions concerning the merger of undertakings where at least one of the transaction parties is a technology undertaking based in Türkiye and for transactions concerning the acquisition of a technology undertaking based in Türkiye.

Article 4 (e) of Communiqué No 2010/4 defines "technology undertakings" as "undertakings that are active in digital platforms, software and gaming software, financial technologies, biotechnology, pharmacology, agricultural chemicals and health technologies sectors or their assets related to these sectors".

The Amended Turnover Guidelines

The Amended Turnover Guidelines have clarified that in assessing whether the TRY250 million threshold is met, only turnover generated from activities in digital platforms, software and gaming software, financial technologies, biotechnology, pharmacology, agricultural chemicals, and health technologies will be taken into consideration.

Please note that it is currently uncertain whether the clarification introduced by the Amended Turnover Guidelines should be interpreted as implying a stronger Türkiye nexus requirement, given that the Turkish turnover threshold assessment is based on turnover generated from specified technology activities. The practical application of this approach remains to be clarified through the future decisions of the Board.

Once the above-mentioned thresholds are exceeded, the parties are obliged to notify the transaction.

Exceptions

The following transactions are not subject to the approval of the Board:

- intra-group transactions and other transactions that do not lead to a change of control;

- temporary possession of securities for resale purposes by undertakings whose normal activities are to conduct transactions with such securities for their own account or for the account of others, provided that the voting rights attached to such securities are not exercised in a way that affects the competition policies of the target company;
- statutory and compulsory acquisitions by public institutions or organisations for reasons such as liquidation, winding-up, insolvency, cessation of payments, concordat or privatisation; and
- acquisition by inheritance.

Another exception pertains to the Turkish Wealth Fund, which was incorporated as a national wealth and investment fund company under Law No 6741. Transactions performed by the Turkish Wealth Fund and/or companies established by the Turkish Wealth Fund are not subject to merger control rules.

2.2 Failure to Notify

Competition Law

The Competition Law introduces penalties for failing to notify or for closing the transaction before clearance. Where the parties to a merger or acquisition that requires the Board's approval close the transaction without or before obtaining the Board's approval, the Board imposes a turnover-based monetary fine of 0.1% of the turnover generated in the financial year preceding the date of the fining decision on the relevant undertaking(s). In acquisitions, the fine is levied on the acquirer, whereas in mergers it is levied on all merging parties. This monetary fine does not depend on whether or not the TCA ultimately clears the transaction.

The minimum amount of this fine is revised each year. For 2026, it is set at TRY302,484.86.

Article 7 Violations

If the parties close a transaction that violates Article 7 (ie, transactions that significantly impede competition – in particular by creating a dominant position or strengthening an existing dominant position), the Board will impose a turnover-based monetary fine of up to 10% of the parties' turnovers generated in the financial year preceding the date of the fining decision. Employees and managers that had a determining effect on the creation of the violation may also be fined up to 5% of the fine imposed on the undertakings.

If the parties close a notifiable merger or acquisition without or before the approval of the Board, the transaction will be deemed legally invalid (with all attendant legal consequences in Türkiye), pending clearance.

If the Board finds that the transaction violates Article 7, it shall issue a Board resolution ordering:

- the parties concerned to follow or avoid certain behaviours in order to establish competition; and
- structural remedies such as the transfer of certain activities or shareholdings.

However, the relevant amendment introduces a "first behavioural, then structural remedy" rule for Article 7 violations. Therefore, in cases where behavioural remedies are ultimately considered to be ineffective, the Board will order structural remedies. Undertakings must comply with the structural remedies within a minimum of six months. If there is a possibility of serious and irreparable damages occurring, the Board is authorised to take interim measures until the final resolution on the matter.

There have been many cases where companies have been fined for failing to file a notifiable transaction (eg, *Broadcom/VMware*, 18 July 2024, 24-30/707-296;*Kartek/Param*, 4 April 2024, 24-16/390-148;*Twitter Inc./Elon Musk*, 2 March 2023, 23-12/197-66;*TAIF/SIBUR*, 11 November 2021, 21-55/776-383;*BMW/Daimler/Ford/Porsche/Ionity*, 28 July 2020, 20-36/483-211; and *Brookfield/JCI*, 30 April 2020, 20-21/278-132). The penalties are publicly announced via the Board's reasoned decisions, which are published on the TCA's official website.

2.3 Types of Transactions

Notifiable transactions are as follows:

- a merger of two or more undertakings;
- the acquisition of direct/indirect control on a lasting basis over all (or part) of one or more undertakings by one or more undertakings – or by persons who currently control at least one undertaking – through

the purchase of assets or all (or part) of its shares, an agreement or other instruments; and
- the formation of a full-function joint venture.

These transactions are caught if they exceed the applicable thresholds (see **2.1 Notification**).

Operations that do not involve the transfer of shares or assets can be caught if they result in a change of control and the parties' turnovers surpass the applicable thresholds.

2.4 Definition of "Control"

Communiqué No 2010/4 provides the definition of "control", which is akin to the definition in Article 3 of Council Regulation No 139/2004.

According to Article 5 (2) of Communiqué No 2010/4, control can be constituted by:

- rights, agreements or any other means that – either separately or jointly, de facto or de jure – confer the opportunity to exercise a decisive influence on an undertaking (particularly by ownership or the right to use all or part of the assets of an undertaking); or
- rights or agreements that confer decisive influence on the composition or decisions of the organs of an undertaking.

Acquisitions of minority or other interests that do not lead to a change of control on a lasting basis are not subject to notification. However, where acquired minority interests are granted certain veto rights – for example, privileged shares conferring management powers – that may influence the strategic management of the company, then the nature of control could be deemed as changed (from sole to joint control), and the transaction could be subject to filing.

2.5 Jurisdictional Thresholds

Please see **2.1 Notification** for further details of jurisdictional thresholds, including a threshold exemption for undertakings active in certain markets/sectors.

2.6 Calculations of Jurisdictional Thresholds

The Turkish merger control regime uses turnover-based thresholds. The regime does not therefore deal with asset-based thresholds.

Communiqué No 2010/4

Communiqué No 2010/4 sets out detailed rules for turnover calculation. The calculation methods can be summarised as follows:

- the turnover of the entire economic group will be taken into account, including that of the undertakings controlling the undertaking concerned and that of all undertakings controlled by the undertaking concerned;
- when calculating turnover in an acquisition transaction, only the turnover of the acquired part will be taken into account with regard to the seller;
- the turnover of jointly controlled undertakings (including joint ventures) will be divided equally by the number of controlling undertakings; and
- two or more transactions carried out by the same parties or the acquisitions of other targets in the same relevant product market (regardless of the identity of the seller(s)) within a three-year period will be considered as one transaction for the purpose of turnover calculation.

The Amended Turnover Guidelines have clarified the beginning of the three-year period in assessing multiple transactions as a single transaction. Accordingly, the three-year period set out under Article 8 (5) of the Amended Communiqué shall be calculated based on the date on which the relevant merger control filing is entered into the Authority's records.

However, there are certain special turnover calculation methods for entities such as banks, financial institutions, leasing companies, factoring companies, securities agents and insurance companies.

Communiqué No 2022/2

On 4 March 2022, the TCA published Communiqué No 2022/2 on the Amendment of Communiqué No 2010/4 on the Mergers and Acquisitions Subject to the Approval of the Competition Board ("Communiqué 2022/2"), which was partially amended by the Amendment Communiqué. Communiqué No 2022/2 updated the rules that apply to the calculation of turnover of financial institutions in accordance with the recent changes to the financial regulations as follows.

- For the calculation of financial institutions' turnovers, Communiqué No 2022/2 aligns the wordings and terms in view of the applicable banking and financial regulations – ie, it excludes the term "participation banks" and refers to "banks" in general, which covers all legal forms of banks.
- Communiqué No 2022/2 updates the names and references of the relevant regulations issued by the Banking Regulatory and Supervisory Agency and the Capital Markets Board referred to in Article 9 of Communiqué No 2010/4.

Turnover Calculation

In respect of various financial institutions, the turnover determined by the special turnover calculation method consists of the sum of the following.

- Banks and participation banks – as included within the income statement requested under the Communiqué Concerning the Financial Tables to be Disclosed to the Public by Banks, and Related Explanations and Footnotes (Banking Regulatory and Supervisory Agency, 10/2/2007, 26430):
  - (a) interest and profit-sharing income;
  - (b) collected fees and commissions;
  - (c) dividend income;
  - (d) commercial profits/losses (net); and
  - (e) other operational income.
- Financial leasing, factoring and funding companies – real operating income and other operating income, as included within the income statement requested under the Communiqué Concerning the Uniform Accounting Plan to be Implemented by Financial Leasing, Factoring and Funding Companies and the Explanation Note Thereof, and Concerning the Format and Content of the Financial Tables to be Disclosed to the Public (the Banking Regulatory and Supervisory Agency, 17/5/2007, 26525).
- Intermediary institutions and portfolio management companies – as included within the detailed income statement requested under the Communiqué Concerning the Principles on Financial Reporting within the Capital Market (the Banking Regulatory and Supervisory Agency, 9/4/2008, 26842):
  - (a) sales income;
  - (b) interests;
  - (c) fees;
  - (d) premiums;
  - (e) commissions and other income;
  - (f) other operating income;
  - (g) shares in the profits/losses of the investments valued via the equity method; and
  - (h) financial income other than operating income.
- Insurance, reinsurance and pension companies – in accordance with the last financial statements or data either (i) published by the Undersecretariat of the Treasury, the Association of Insurance and Reinsurance Companies of Türkiye, or the Pension Monitoring Centre or (ii) disclosed to the public by the companies related to the merger or acquisition (to be confirmed by the Undersecretariat of Treasury):
  - (a) domestic direct premium production for insurance companies (gross);
  - (b) domestic direct premium production for reinsurance companies (gross); and
  - (c) the total amount of contributions and the total amount of funds in pension companies, as well as domestic direct premium production (gross) for those pension companies that also operate in life insurance.
- Other financial institutions – interest and similar income, income generated from securities, commissions, net profit generated from financial activities and other operating income.

Sales and assets that are booked in a foreign currency should be converted into Turkish lira by using the average buying exchange rate of the Central Bank of Türkiye for the financial year in which the sales or assets are generated.

2.7 Businesses/Corporate Entities Relevant for the Calculation of Jurisdictional Thresholds

See **2.6 Calculations of Jurisdictional Thresholds**.

The seller's turnover is only included with that of the target in exceptional situations. It is included in joint-venture transactions if the seller remains a controlling party in the joint venture post-transaction (ie, both the seller and the buyer would be considered as buyers in cases where the buyer and the seller form a joint venture).

The Board will only consider the changes in the business during the reference period if they are reflected in the relevant balance sheets of the businesses in question.

2.8 Foreign-to-Foreign Transactions

Foreign-to-foreign transactions are subject to merger control if the turnover thresholds are triggered. The Competition Law states that the criterion to apply is whether or not the undertakings concerned affect the goods and services markets in Türkiye. Even if the relevant undertakings do not have local subsidiaries, branches, sales outlets, etc, in Türkiye, the transaction may still be subject to merger control if the relevant undertakings have sales in Türkiye and thus have effects on the relevant Turkish market.

The likelihood of the Board discovering a transaction is relatively high, as it closely follows M&A in the local and international press, and also the case practice of the EC and other important competition authorities. It may also examine the notifiability of past transactions in the context of a new notification.

Even transactions concerning the formation of a joint venture that will not be active in Türkiye in the foreseeable future could trigger a mandatory merger control filing if the parents trigger the applicable thresholds.

Board Decisions

There have been some cases where the Board has cleared transactions regarding joint ventures that do not involve sales in Türkiye and considered them notifiable. Recent cases include *Maccaferri/Prime Synthetic* (25-09/205-104; 06.03.2025), *Hunan Yunchu/Toyota Motor/Meiwa Corporation/Minmetals* (25-09/209-107; 06.03.2025), *Terminal Investment/Barcelona Europe South Terminal*, *S.A.U/Terminal Catalunya S.A.* (25-04/109-62; 06.02.2025), *HIG Capital/Thoma Bravo/Comptia* (24-50/1123-481; 28.11.2024), *Sentry/Xiamen/JV* (24-34/838-357; 22.08.2024), *Warner Bros/Walt Disney/Fox/Venu Sports* (24-32/740-313; 01.08.2024), *Heinemann* (24-08/144-60, 15.02.2024), *TotalEnergies/Hydrogen* (24-03/52-15, 11.01.2024), *Pirelli* (24-08/141-57, 15.02.2024), *Baoshan Iron & Steel/Saudi Arabian Oil Company/Public Investment Fund* (23-40/782-274, 31 August 2023), *Nestle SA/PAI Partners Sarl* (23-28/531-180, 22 June 2023), *Gs Yuasa International/Leoch Battery Company* (23-48/925-328, 12 October 2023), *Tricon/Chemieuro-JV* (22-15/248-107, 31 March 2022), and *Baker Hughes/Dussur-Baker Petrolite* (22-28/451-182, 23 June 2022).

2.9 Market Share Jurisdictional Threshold

Article 7 of Communiqué No 2010/4 establishes turnover-based thresholds and does not require the assessment of market-share thresholds when determining whether a notification is required for a transaction.

2.10 Joint Ventures

In the case of a full-function joint venture, the transaction is subject to merger control once the turnover thresholds are exceeded. To qualify as a full-function joint venture, there must be joint control over the joint venture, and it must be an independent economic entity established on a lasting basis.

The Guidelines on the Concept of Control explain the concept of “full functionality”. The following elements should be considered:

- sufficient resources to operate independently;
- activities that go beyond one specific function for the parents;
- independence from the parents in sale and purchase activities; and
- operations on a lasting basis.

Please refer to **2.8 Foreign-to-Foreign Transactions** for details of the Board’s approach to joint venture cases.

2.11 Power of Authorities to Investigate a Transaction

If a transaction raises substantive competition law concerns and is viewed as problematic under the significant impediment to effective competition (SIEC) test, the TCA may still investigate the transaction either upon complaint or on its own initiative – even where the transaction does not meet the jurisdictional thresholds. The applicable limitation period is eight years, pursuant to Article 20 (3) of the Law on Misdemeanours No 5326.

2.12 Requirement for Clearance Before Implementation

The Turkish competition law regime features a suspension requirement, whereby implementation of a notifiable concentration is prohibited until approval by the Board (Articles 7, 10, 11 and 16 of the Competition Law) (see **2.13 Penalties for the Implementation of a Transaction Before Clearance**). The implementation of a notifiable transaction is suspended until clearance by the Board is obtained. Therefore, a notifiable merger or acquisition is not legally valid until the approval of the Board is received, and such notifiable transaction cannot be closed in Türkiye before the clearance of the Board.

2.13 Penalties for the Implementation of a Transaction Before Clearance

Pursuant to Article 16 of the Competition Law, if the parties to a notifiable transaction violate the suspension requirement, a turnover-based monetary fine (based on the local turnover generated in the financial year preceding the date of the fining decision at a rate of 0.1%) will be imposed on the incumbent firms – ie, the acquirer(s) in the case of an acquisition and both merging parties in the case of a merger. A monetary fine imposed for a violation of the suspension requirement will be no less than TRY302,484.86 in 2026. The wording of Article 16 does not give the Board discretion as to whether or not to impose a monetary fine for a violation of the suspension requirement – rather, once the violation of the suspension requirement is detected, the monetary fine will be imposed automatically.

These penalties are applied frequently in practice. In recent years, examples have included:

- *Can Kültür/Tekfen*, 26 June 2025, 25-23/589-371;
- *Broadcom/VMware*, 18 July 2024, 24-30/707-296;
- *Kartek/Param*, 4 April 2024, 24-16/390-148; and
- *Twitter Inc./Elon Musk*, 2 March 2023, 23-12/197-66.

2.14 Exceptions to Suspensive Effect

If the control is acquired from various sellers through a series of securities transactions in the stock exchange, the concentration could be notified to the Board after the transaction is realised, provided that the following conditions are satisfied:

- the concentration is notified to the Board without delay; and
- the voting rights attached to the acquired securities are not exercised, or the voting rights are exercised only upon an exception provided by the Board that ensures the full value of the investment is protected.

Apart from this, there are no general exceptions to the suspensive effect, and it is not possible to seek a waiver or obtain derogation from the suspensive effect.

2.15 Circumstances Where Implementation Before Clearance Is Permitted

The Board would not permit closing before the clearance decision. There is no specific regulation allowing or disallowing carve-out or hold-separate arrangements. However, the Board has so far consistently rejected all carve-out and hold-separate arrangements proposed by undertakings (eg, Total SA, 20 December 2006, 06-92/1186-355; CVR Inc-Inco Limited, 1 February 2007, 07-11/71-23). The Board argued that a closing is sufficient for it to impose a suspension violation fine, and an analysis of whether change in control actually took effect in Türkiye is unwarranted. The Board therefore considers the “carve-out” concept to be unconvincing.

3. Procedure: Notification to Clearance

3.1 Deadlines for Notification

There is no specific deadline for filing in Türkiye. However, the filing should be made, and approval obtained, before the closing. In practice, it is recommended that the transaction be filed at least 60 calendar days before the projected closing. For details of penalties in the case of failure to do so, please see **2.13 Penalties for the Implementation of a Transaction Before Clearance.**

3.2 Type of Agreement Required Prior to Notification

A binding agreement is not required prior to notification. Parties can file on the basis of a less formal agreement, such as a letter of intent, a memorandum of understanding or a non-binding term sheet. There are some cases where the parties merely enclosed a letter of intent and/or a memorandum of understanding (*Defacto Perakende/European Bank*, 22-55/872-359, 15 December 2022;*Kavak/Araba Sepeti*, 21-43/627-309, 16 September 2021;*Opel-Saft*, 20-08/78-45, 6 February 2020). However, Communiqué No 2010/4 requires the submission of a written document prior to notification. A filing thus cannot be made where there is nothing in writing (eg, based merely on a good-faith intention to reach an agreement).

3.3 Filing Fees

No filing fees are required under the Turkish merger control regime.

3.4 Parties Responsible for Filing

Pursuant to Article 10 of Communiqué No 2010/4, a filing can be made solely by one of the parties or jointly by some or all of the parties. The filing can be submitted by the parties' authorised representatives. In the event of filing by just one of the parties, the filing party should notify the other party.

3.5 Information Included in a Filing

The notification form is similar to Form CO. The Board requires that one hard copy and an electronic copy of the notification form be submitted in Turkish. The recent updates allow notifying parties to submit the notification form via e-Devlet, which is an elaborate system of web-based services that includes electronic submission. e-Devlet had already been made available for submissions, especially during the pandemic period. However, Communiqué No 2010/4 explicitly mentions this alternative form of submission, making it official.

Additional documents are also required, such as:

- the executed or current copies and sworn Turkish translations of the transaction document(s) that brings about the transaction;
- financial statements (including the balance sheets of the parties); and
- market research reports for the relevant market (if available).

A signed and notarised (and apostilled, if applicable) power of attorney is also required.

3.6 Penalties/Consequences of Incomplete or Inaccurate Notification

The TCA considers a notification to be complete when it receives the notification in its complete form. The parties are obliged to file correct and complete information with the TCA. If the parties provide incomplete information, the Board will request further data regarding the missing information. The Board deems the notification to be complete on the date that the submitted information is complete.

In practice, the Board sends written information requests when there is missing information. The TCA's written information requests will cut the review period and restart the 30-day period as of the date on which the responses are submitted.

Where incorrect or misleading information is provided by the parties, the TCA imposes a turnover-based monetary fine of 0.1% of the turnover generated in the financial year preceding the date of the fining decision (*Brookfield*, 20-21/278-132, 30 April 2020;*Akzo Nobel*, 10- 24/339-123, 18 March 2010). If this is not calculable, the monetary fine is based on the turnover generated in the financial year nearest to the date of the fining decision.

3.7 Review Process

Upon its preliminary review (Phase I) of the notification, the Board will decide either to approve the transaction or to investigate it further (Phase II). The Board notifies the parties of the outcome within 30 days following a complete filing. There is an implied approval mechanism whereby tacit approval is assumed if the Board does not react within 30 calendar days upon a complete filing. However, in practice, the Board almost always reacts within the 30-day period – either by sending a written request for information or, very rarely, by rendering its decision within the original 30-day period. The TCA also frequently asks formal questions and adds more time to the review process, as it is advisable to notify the filing at least 60 calendar days before the projected closing.

If a notification leads to an investigation (Phase II), it turns into a full-fledged investigation, which takes about six months under Turkish law. If deemed necessary, this period may be extended only once – for an additional period of up to six months.

3.8 Pre-Notification Discussions With Authorities

Other than privatisation tenders, the Turkish merger control rules do not have a pre-notification mechanism. Also, in practice, a filing is seen as a one-sided review by the TCA once a formal one-shot notification is made. The TCA may issue various information requests, but it will only do so after the notification is made (see **3.6 Penalties/Consequences of Incomplete or Inaccurate Notification** and **3.7 Review Process**).

The filing process differs for privatisation tenders. Amendment Communiqué No 2026/3 on the Amendment of Communiqué No 2013/2 on the Procedures and Principles to be Pursued in Pre-Notification and Authorisation Applications to be Filed with the Turkish Competition Authority in order for Acquisitions via Privatisation to Become Legally Valid prescribes an additional pre-notification process. This only applies to privatisations in which the turnover of the undertaking or asset or unit intended for production of goods or services to be privatised exceeds TRY1 billion (approximately EUR22.4 million or USD25.3 million). For this calculation, sales to public institutions and organisations including local governments made on the basis of a legislative provision should not be taken into account. If the threshold is met, a pre-notification should be filed with the Authority before the public announcement of the tender specifications. The Board will issue an opinion that will serve as the basis for the preparation of the tender specifications. This opinion does not mean that the transaction is cleared. Following the tender, the winning bidder will still have to make a merger filing and obtain approval before the Privatisation Administration's decision on the final acquisition.

3.9 Requests for Information During the Review Process

It is common practice for the TCA to send written requests to the parties involved in the transaction and to any other party related to the transaction, or to third parties such as competitors, customers or suppliers. The TCA's written information requests will cut the review period and restart the 30-day period as of the date on which the responses are submitted.

3.10 Accelerated Procedure

Amendment Communiqué also brought a modified notification form that has replaced the current notification form as of 11 February 2026. According to the modified notification form, a short-form notification (without a fast-track procedure) is available if one of the following applies:

- there are no affected markets in Türkiye;
- for horizontal overlaps, the total market share of the transaction parties does not exceed 15%;
- for vertical overlaps, the market share of one of the parties does not exceed 20%; or
- a transition from joint control to sole control is involved.

The Turkish merger control regime does not include a fast-track procedure to speed up the clearance process. Apart from close follow-up with the case handlers reviewing the transaction, the parties have no other possible way to speed up the review process.

The Amendment Communiqué also introduces procedural convenience for acquisitions made by venture capital investment trusts, venture capital investment funds and private equity investment vehicles. In particular, for filings including venture capital investment trusts, venture capital investment funds and private equity investment vehicles or individual participation investors (except for the target), the scope of information required in the notification form has been streamlined. They are required to provide only the information relating to Türkiye under Sections 2.2 (information on the activities of the undertakings concerned) and 2.4 (information on the activities of the transaction parties) of the notification form. According to the template notification form attached to the Amended Communiqué No 2010/4, for such transaction parties, where it is declared that the worldwide turnover threshold is exceeded, it is sufficient to provide only the information relating to Türkiye requested under Section 2.5 (information on the turnover of the transaction parties).

4. Substance of the Review

4.1 Substantive Test

The substantive test is a SIEC test under the Amendment Law, similar to the approach under EU Merger Regulation. On the basis of this test, the TCA will be able to prohibit not only transactions that may create a dominant position or strengthen an existing dominant position, but also those that could significantly impede competition. Accordingly, within the scope of its review, the Board would mainly focus on the unilateral effects of the concentration and assess whether the parties to the concentration will continue to face significant competition even after the completion of the envisaged transaction.

In terms of creating or strengthening a dominant position, Article 3 of the Competition Law defines a dominant position as "any position enjoyed in a certain market by one or more undertakings by virtue of which those undertakings have the power to act independently from their competitors and purchasers in determining economic parameters such as the amount of production, distribution, price and supply". Market shares of about 40% and higher are considered an indication of a dominant position in a relevant product market – as are other factors such as vertical foreclosure or barriers to entry.

The Amended Communiqué No 2010/4 provides a clearer framework for evaluating potential co-ordination risks among parent companies of a joint venture through a newly added sub-paragraph to Article 13 of Communiqué No 2010/4. Although full-function joint ventures will continue to fall under the applicable merger control rules, the Board will assess whether the formation of a joint venture could lead to anti-competitive co-ordination between its parent undertakings, and may review the transaction under Articles 4 and 5 of Law No 4054 on the Protection of Competition, if such co-ordination has the purpose or effect of restricting competition.

In light of the Amended Communiqué No 2010/4, the Amended Guidelines on Horizontal Mergers and Amended Guidelines on Non-Horizontal Mergers now include additional guidance concerning the assessment of co-ordinated effects between parent undertakings arising from the establishment of a joint venture. In this respect, the risk of co-ordination may increase where:

- the parent undertakings have significant activities in the market in which the joint venture operates;
- structural or contractual links between the parent undertakings (such as minority shareholdings or long-term supply/licensing relationships) exist prior to the transaction;
- the joint venture constitutes a key supplier or customer for the parent undertakings; or
- two or more parent undertakings maintain significant activities in neighbouring markets closely related to the market in which the joint venture operates, and such neighbouring market is of considerable economic importance to the parent undertakings compared to the market in which the joint venture operates.

On the other hand, it is stated that the risk of co-ordination would generally be considered low where the parent undertakings fully transfer their activities in the relevant market to the joint venture or do not maintain a meaningful presence in the relevant market.

4.2 Markets Affected by a Transaction

Pursuant to Communiqué No 2010/4, the relevant product markets are those that might be affected by the notified transaction where:

- two or more of the parties are commercially active in the same product market (horizontal relationship); or
- at least one of the parties is commercially active in the downstream or upstream market of any product market in which another party operates (vertical relationship).

4.3 Reliance on Case Law

The TCA closely follows the EC's decisions (eg, *L'Oréal SA v The Body Shop*, 06-41/515-136, 7 June 2006;*IBM Danmark v Maersk Data*, 04-69/983-239, 27

October 2004;*Flir Systems v Raymarine*, 10-44/762-246, 17 June 2010; and *Efes Pazarlama*, 05-48/696-184, 21 July 2005), as well as the CJEU's precedents, and regularly incorporates them into its decisions.

The Board has also referred to the US Federal Trade Commission decisions (eg, *Google*, 16-39/638-284, 16 November 2016), as well as the French and German competition authorities' precedents (eg, *BSH Ev Aletleri*, 17-27/454-195, 22 August 2017; and *Yemeksepeti*, 16-20/347-156, 9 June 2016).

4.4 Competition Concerns

The TCA primarily focuses on unilateral effects, but may also consider co-ordinated effects (*Ladik*, 05-86/1188-340, 20 December 2005) and vertical effects (*Migros*, 15-29/420-117, 9 July 2015 – in which the transaction was conditionally cleared). However, the TCA has not yet prohibited a transaction on the grounds of "conglomerate effects".

4.5 Economic Efficiencies

The Board considers economic efficiencies to the extent that they operate as a beneficial factor in terms of better-quality production or cost savings (eg, reduced product development costs or reduced procurement and production costs) generated through the integration. Per the Amendment Communiqué, in transactions where an application with a short notification form is available (see **3.10 Accelerated Procedure**), parties can skip the relevant sections of the notification form on efficiencies.

4.6 Non-Competition Issues

The TCA does not take non-competition issues such as industrial policies, national security, foreign investment, employment or other public interest issues into account when assessing a merger. Therefore, the TCA is independent while carrying out its duties. Article 20 of the Competition Law implies that no organ, authority, entity or person can give orders or directives to affect the final decisions of the Board.

The TCA has so far kept its independence and impartiality in its enforcement activities in respect of both local and foreign investors. The merger control regulations also apply to foreign direct investments, given that there are no separate merger control regulations for foreign direct investments in Türkiye.

4.7 Special Consideration for Joint Ventures

Special consideration is given to joint ventures under the Turkish merger control regime. A joint venture must not have the object or effect of restricting competition between the parties and itself. Article 5 of the Competition Law provides that the parties may notify the non-full-function joint venture to the Board for individual exemption. Communiqué No 2010/4 provides individual exemption for full-function joint ventures if the joint venture has the object or effect of restricting competition between the parties and the joint venture.

The standard SIEC test applies to the full-function joint venture. In addition, the notification form includes a certain section that is aimed at collecting information to assess whether the joint venture will lead to co-ordination. Article 13/3 of Communiqué No 2010/4 provides that the Board should carry out an individual exemption review on notified joint ventures that emerge as an independent economic unit on a lasting basis but have as their object or effect the restriction of competition among the parties, or between the parties and the joint venture itself. Furthermore, as per the Amendment Communiqué, Article 13 (4) of Communiqué No 2010/4 provides that when conducting the assessment under Article 13 (3), the Board shall particularly consider whether:

- two or more parties to the transaction have significant activities in the same market as the joint venture or in an upstream, downstream, or closely related neighbouring market where the joint venture operates; and
- the co-ordination resulting directly from the establishment of the joint venture is likely to eliminate competition between the parent undertakings in respect of a substantial part of the products or services in question.

Non-full-function joint ventures are not subject to merger control but may fall under Article 4, which prohibits restrictive agreements. The parties may conduct a self-assessment to see if the non-full-function joint venture fulfils the conditions for individual exemption.

5. Decision: Prohibitions and Remedies

5.1 Authorities' Ability to Prohibit or Interfere With Transactions

The Board may render either a clearance or a prohibition decision. However, it may also decide to give a conditional approval.

The Board has broad powers during the investigation stage. If it determines that the transaction may violate the Competition Law, the Board may notify the undertaking (or associations of undertakings) concerned of a decision regarding the actions to be taken or avoided so as to establish and maintain competition before infringement occurs. The Board may also forward its opinion on how to terminate such infringement.

The Board can re-examine a clearance decision at any time. It may subsequently decide on prohibition and the application of other sanctions for a merger or acquisition if:

- the clearance was granted based on incorrect or misleading information from one of the undertakings; or
- the obligations provided in the decision are not complied with.

For there to be a prohibition decision, the Board must show that the transaction could significantly impede competition. In cases of conditional clearance, the Board must show that the transaction would produce these effects in the absence of the relevant structural and/or behavioural remedies.

5.2 Parties' Ability to Negotiate Remedies

The parties are able to negotiate remedies according to Article 14 of Communiqué No 2010/4, which enables the parties to provide commitments to remedy substantive competition law issues of a concentration under Article 7.

The Remedy Guidelines require that the parties should submit detailed information on how the remedy would be applied and how it would resolve the competition concerns. The guidelines state that behavioural or structural remedies may be submitted by the parties and outline the acceptable remedies, which include:

- divestment in order to cease all kinds of connection with the competitors;
- remedies that enable undertakings to access or be prevented from accessing certain infrastructure (eg, networks, IP, essential facilities); and
- remedies in respect of concluding/amending long-term exclusive agreements.

Typical Remedies

The number of cases in which the Board has requested divestment or licensing commitments, or other structural or behavioural remedies, has increased dramatically in the past few years. In practice, the Board is inclined to apply different types of divestment remedies. Examples of the Board's pro-competitive divestment remedies include divestitures, ownership unbundling, legal separation, access to essential facilities and obligations to apply non-discriminatory terms.

Remedy Guidelines

The Remedy Guidelines include all steps and conditions for the enforcement of remedies.

The intended effect of the divestiture will take place only if the divestment business is assigned to a purchaser that can create an effective competitive power in the market. To make sure that the business will be divested to a suitable purchaser, the proposed remedy must include the elements that define the suitability of the purchaser.

The approval of a possible purchaser by the Board is dependent on the following requirements.

- The purchaser must be independent of and not connected to the parties.
- The purchaser must have the financial resources, business experience and ability to become an effective competitor in the market through the divestment business.
- The transfer transaction to be carried out with the purchaser must not cause a new competitive problem. In the event that such a problem exists, a new remedy proposal will not be accepted.
- The transfer to the purchaser must not risk delaying the implementation of the commitments. The purchaser must be capable of obtaining all the

necessary authorisations from the relevant regulatory authorities concerning the transfer of the divestment business.

The conditions may be revised on a case-by-case basis. In some cases, for example, an obligation may be imposed such that the purchaser is active in the sector rather than seeking financial investment.

As per the Remedy Guidelines, there are two methods that are accepted by the Board. The first is for a purchaser fulfilling the aforementioned conditions to acquire the divested business within a period of time following the authorisation decision and upon the approval of the Board. The second is the signing of a sales contract with a suitable purchaser before the authorisation decision ("fix it first").

5.3 Legal Standard

Pursuant to the Remedy Guidelines, the parties must take the following principles into account when submitting proposed remedies.

- Parties must base their remedies on the legal and economic principles specific to the transaction at hand. Solutions must aim to protect the market from the potential effects of the transaction through the protection of the market's competitive structure.
- The main aim of a remedy is to protect the pre-transaction level of competition.
- The remedy must protect competition, rather than protect the competitors.
- The conditions of the remedy must be clear and feasible.

The Board should only accept remedies that have been shown to eliminate the problem of significant restriction on competition. In addition, the Remedy Guidelines require the remedies to be capable of being implemented effectively as soon as possible, as market conditions may change before the implementation of the proposed remedy.

5.4 Negotiating Remedies With Authorities

The parties may submit proposals for possible remedies during either the preliminary review or the investigation process.

There have been several cases where the Board has accepted remedies or commitments (such as divestments) proposed to or imposed by the EC, as long as these remedies or commitments ease competition law concerns in Türkiye (eg, *Synthomer plc/OMNOVA Solutions*, 20-08/90-55, 6 February 2020;*Obilet/Biletal*, 21-33/449-224, 1 July 2021; and *American Securities/Ferro*, 22-10/144-59, 24 February 2022).

For further details, see **5.1 Authorities' Ability to Prohibit or Interfere With Transactions**.

5.5 Conditions and Timing for Divestitures

The Board may condition its approval decision on the observance of the remedies. The characteristics of the remedies are important when determining whether the parties may complete the transaction before the remedies are complied with. The remedies are different in nature – some are conditions precedent for the closing, and others obligations that could only be complied with after closure – and the parties cannot complete the transaction unless the remedies are complied with before the closing.

The TCA imposes a turnover-based monetary fine of 0.05% of the turnover generated in the financial year preceding the date of the fining decision if the parties do not comply with the remedies. Where this is not calculable, the turnover generated in the financial year nearest to the date of the fining decision will be used.

5.6 Issuance of Decisions

The Board serves the final decisions to the representative(s) of the notifying party/parties. Following the removal of any confidential business information, final decisions are also published on the website of the TCA.

5.7 Prohibitions and Remedies for Foreign-to-Foreign Transactions

In an example of a conditional clearance case (*Synthomer plc/OMNOVA Solutions*, 20-08/90-55, 6 February 2020), the Board granted its conditional approval to the transaction based on the commitments provided by the parties to the EC during its Phase II review. Moreover, in *Nidec/Embraco* (19-16/231-103, 18 April 2019), *Bayer Aktiengesellschaft* (18-14/261-126, 8 May 2018) and *NV Bekaert* (15-04/52-25, 22 January

2015), the Board granted its conditional approval to the transactions based on the commitments provided by the parties during its Phase II review. The Board also prohibited the acquisition of Beta Marina and Pendik Turizm by Setur (a subsidiary of Koç Holding, Türkiye's largest industrial conglomerate).

There are a few decisions in which behavioural remedies were recognised (eg, *Potas/Antalya Airport*, 23-22/426-142, 12 May 2023;*EssilorLuxottica/Hal Holding*, 21-30/395-199, 10 June 2021;*Bekaert/Pirelli*, 15-04/52-25, 22 January 2015; and *Migros/Anadolu*, 15-29/420-117, 9 July 2015). Nonetheless, the great majority of conditional clearance decisions rely on structural remedies (eg, *GT Global/Ideasoft*, 25-14/336-158, 10 April 2025;*Eczacıbaşı Monrol/Curium International*, 25-07/175-87, 20 January 2025;*Arkel Elektrik/Innovalift*, 25-02/66-39, 16 January 2025;*Param Holding/Kartek*, 24-56/1241-531, 27 December 2024;*Honeywell/Civitanavi Systems*, 24-33/808-342, 15 August 2024;*Petrol Ofisi/Ege Yeni Nesil*, 24-33/780-327, 15 August 2024;*Kariyer.Net/Brotek*, 24-24/556-236, 4 June 2024;*Harris Corporation/L3 Technologies*, 19-22/327-145, 20 June 2019; and *Nidec/Embraco*, 19-16/231-103, 18 April 2019).

In some of these cases (eg, *Cadbury/Schweppes*, 07-67/836-314, 23 August 2007), the parties initially proposed purely behavioural remedies, which ultimately failed. However, in *Luxottica/Essilor* (18-36/585-286, 1 October 2018), certain structural and behavioural remedies were submitted to the TCA, and the Board approved the transaction.

6. Ancillary Restraints and Related Transactions

6.1 Clearance Decisions and Separate Notifications

The Board's approval of the transaction must also cover the restraints that are directly related to and necessary to enforce the transaction (Article 13 (5) of Communiqué No 2010/4). Therefore, a restraint shall be covered to the extent that its nature, subject matter, geographic scope and duration are limited to what is necessary to enforce the transaction.

General rules on ancillary restraints are defined in the Guidelines on Undertakings Concerned. The parties make a self-assessment as to whether a certain restriction could be deemed ancillary; therefore, the Board will not allocate a separate part in its decision to explaining the ancillary status of all the restraints. The Board may review the restraints per the parties' request and, if the ancillary restrictions are not compliant with the merger control regulation, may launch an Article 4 investigation.

7. Third-Party Rights, Confidentiality and Cross-Border Co-Operation

7.1 Third-Party Rights

The Board is authorised to request information from third parties such as customers, competitors, complainants and other persons related to the transaction. During the review process, third parties may submit complaints about a transaction and request a hearing from the Board, provided that they prove their legitimate interest to do so. They may also challenge the Board's decision regarding the transaction before the competent judicial tribunal – again, provided that they prove their legitimate interest.

If the legislation requires the TCA to ask for another public authority's opinion, this would cut the review period, which would then start when the Board receives the public authority's opinion.

7.2 Contacting Third Parties

The Board frequently contacts third parties as part of its review process, where needed. This is usually in a written form; oral communication with third parties only takes place in exceptional circumstances. There are a limited number of decisions where the Board has applied a market test to the proposed remedies (eg, *Mars Sinema v AFM*, 11-57/1473-539, 17 November 2011).

7.3 Confidentiality

Communiqué No 2010/4 introduces a mechanism that requires the TCA to publish notified transactions on its official website, including only the names of the undertakings concerned and their areas of commercial activity. Once the parties have notified a transaction to the TCA, the existence thereof is no longer a confidential matter.

Communiqué No 2010/3 on the Regulation of Right to Access to File and Protection of Commercial Secrets is the main legislation that regulates the protection of commercial information. Pursuant to Communiqué No 2010/3, undertakings must identify and justify information or documents as commercial secrets.

Undertakings are obligated to request confidentiality from the Board in writing, and to justify their reasons for the confidential treatment of the information or documents. The general rule is that if confidentiality is not requested, then the information and documents are accepted as non-confidential.

As mentioned in **5.6 Issuance of Decisions**, the reasoned decisions of the Board are published on the website of the TCA once confidential business information has been removed. Moreover, the Board and personnel of the TCA are bound by a legal obligation not to disclose any trade secrets or confidential information obtained during the course of their work.

In the event that the Board decides to have a hearing during the investigation, hearings at the TCA are – in principle – open to the public. However, in order to protect public morality or trade secrets, the Board may decide that the hearing must be held in camera.

Article 15 (2) of Communiqué No 2010/3 implies that the TCA may not consider confidentiality requests related to information and documents that are necessary evidence to prove the infringement of competition. In such cases, the TCA can disclose information and documents that could be classed as trade secrets – provided it takes into account the balance between public interest and private interest and makes the disclosure in accordance with the proportionality criterion.

7.4 Co-Operation With Other Jurisdictions

The TCA is authorised to contact certain regulatory authorities around the world, including the EC, in order to exchange information. Authorities are not obliged to seek the parties' permission to share information with each other.

Article 43 of Decision No 1/95 of the EC–Türkiye Association Council (Decision No 1/95) empowers the TCA to notify the EC and request that the Directorate-General for Competition applies relevant measures if the Board believes that transactions realised in EU territory adversely affect competition in Türkiye. This provision grants reciprocal rights and obligations to the parties (EU–Türkiye) and, thus, the EC has the authority to ask the Board to apply the necessary measures to restore competition in the relevant markets.

In addition, the TCA's research department undertakes periodic consultations with relevant domestic and foreign institutions and organisations. In the past, the EC has been reluctant to share any evidence or arguments that the TCA had explicitly requested on a limited number of occasions.

8. Appeals and Judicial Review

8.1 Access to Appeal and Judicial Review

Parties can appeal the Board's final decisions before the administrative courts of Ankara, including decisions on interim measures and fines. Third parties can also challenge a Board decision before the competent administrative courts, provided that they have a legitimate interest. Decisions by the Board are classed as administrative acts and, as such, legal actions against them shall be pursued in accordance with Turkish administrative procedural law. The judicial review comprises both procedural and substantive review.

Filing an administrative action does not automatically stay the execution of the Board's decision. However, at the request of the plaintiff, the court may – by providing its justifications – decide on a stay of execution if the execution of the Board's decision is highly likely to:

- cause serious and irreparable damages; and/or
- be against the law (ie, upon showing of a prima facie case).

Judicial Review Period

Administrative litigation cases are subject to judicial review before the regional courts. This creates a three-level appellate court system consisting of administrative courts, regional courts and the High State Court.

Regional Courts

The regional courts will investigate the case file, on both procedural and substantive grounds, and make their decision based on the merits of the case. The regional court's decision will be considered final in nature.

Pursuant to Article 46 of the Administrative Procedure Law, the decision of the regional court will be subject to the High State Court's review in exceptional circumstances. In such a case, the High State Court may decide to uphold or reverse the regional court's decision. If the decision is reversed by the High State Court, it will be remanded back to the deciding regional court, which will in turn issue a new decision that takes the High State Court's decision into account.

8.2 Typical Timeline for Appeals

The parties should file an appeal case within 60 calendar days of receiving the reasoned decision of the Board. The judicial review before the Ankara administrative courts of first instance usually takes about 12 to 24 months. The appeal before the High State Court usually takes about 24 to 36 months. Court decisions in private suits are appealable before the Supreme Court of Appeals. The appeal process in private suits is governed by the general procedural laws and usually lasts 24 to 30 months.

8.3 Ability of Third Parties to Appeal Clearance Decisions

Third parties can challenge a Board decision before the competent administrative courts, provided they have a legitimate interest.

9. Foreign Direct Investment/Subsidies Review

9.1 Legislation and Filing Requirements

As previously mentioned in **4.6 Non-Competition Issues**, merger control regulations under the Turkish competition law regime are also applicable to foreign direct investments. There are no separate merger control regulations for foreign direct investments.

Trends and Developments

Contributed by:
Gönenç Gürkaynak, K Korhan Yıldırım and Görkem Yardım
ELIG Gürkaynak Attorneys-at-Law

ELIG Gürkaynak Attorneys-at-Law is a leading law firm comprising 95 lawyers based in Istanbul. Founded in 2005, the firm combines a solid knowledge of Turkish law with a business-minded approach to developing legal solutions that meet the ever-changing needs of clients in their international and domestic operations. The competition law and regulatory department is led by founding partner Gönenç Gürkaynak, along with seven other partners, eight counsel and 42 associates. In addition to its unparalleled experience in merger control issues, ELIG Gürkaynak has vast experience of defending companies before the Turkish Competition Board in all phases of antitrust investigations, abuse of dominant position cases and leniency applications, as well as before courts on issues of private enforcement of competition law and in appeals against administrative decisions by the Turkish Competition Authority. ELIG Gürkaynak represents multinational corporations, business associations, investment banks, partnerships and individuals in the widest variety of competition law matters, while also collaborating with many international law firms.

Authors

Gönenç Gürkaynak is the founding partner of ELIG Gürkaynak Attorneys-at-Law and heads its competition law and regulatory department. He graduated from Ankara University Faculty of Law, and received his LLM from Harvard Law School and his PhD in Law from UCL Faculty of Laws. He has nearly 30 years of competition law experience. In addition to his continuing private practice as an attorney, Gönenç is a professor of practice at UCL Faculty of Laws, and a senior research fellow at the Center for Law, Economics & Society at UCL Faculty of Laws. Gönenç frequently speaks at international conferences on competition law matters. He has authored five books and published more than 80 academic articles in refereed international law journals.

K Korhan Yıldırım is a partner in the competition law and regulatory department at ELIG Gürkaynak Attorneys-at-Law. He has more than 18 years of extensive experience in all areas of competition law, including cartel agreements, abuse of dominance, concentrations and joint ventures. Korhan has represented various multinational and national companies before the Turkish Competition Authority, administrative courts and the High State Court. He has given numerous legal opinions and provided training in relation to compliance with competition law rules. Korhan has also authored and co-authored many articles on competition law and merger control matters, and is a frequent speaker at various conferences and symposia.

Görkem Yardım is a counsel at ELIG Gürkaynak Attorneys-at-Law, having joined the firm in 2014. Görkem graduated from Ihsan Doğramacı Bilkent University's Faculty of Law in 2011 and was admitted to the Ankara Bar in 2012 (later transferring to the Istanbul Bar). He obtained his first LLM degree in law and economics from Ihsan Doğramacı Bilkent University in 2013 before obtaining his second LLM degree from King's College London in 2014. Görkem has extensive experience in merger and acquisition filings, competition law compliance matters, and investigations conducted by the Turkish Competition Authority.

Contributed by: Gönenç Gürkaynak, K Korhan Yıldırım and Görkem Yardım, **ELIG Gürkaynak Attorneys-at-Law**

ELIG Gürkaynak Attorneys-at-Law

Çitlenbik Sokak No 12
Yıldız Mahallesi 34349
Beşiktaş
İstanbul
Türkiye

Tel: +90 212 327 17 24
Fax: +90 212 327 17 25
Email: gonenc.gurkaynak@elig.com
Web: www.elig.com

ELİG
GÜRKAYNAK
Attorneys at Law

The Amended Communiqué No 2010/4: Changing Rules for Turkish Competition Board Approval

The Turkish Competition Authority (TCA) has introduced significant changes to the rules applicable to transactions that are subject to the approval of the Turkish Competition Board (the "Board"). These changes entered into force through Communiqué No 2026/2 amending Communiqué No 2010/4 on the Mergers and Acquisitions Subject to the Approval of the Competition Board, published in the Official Gazette on 11 February 2026 ("Amended Communiqué No 2010/4").

Increase of jurisdictional thresholds

The Amended Communiqué No 2010/4 revised the jurisdictional thresholds by increasing both the individual and aggregate Turkish turnover thresholds, as well as the global turnover threshold. In this context, the Turkish turnover threshold for each of the transaction parties (ie, for acquisitions, the Turkish turnover of the transferred assets or businesses being acquired, or, for mergers, the Turkish turnover of any of the parties being merged), previously TRY250 million (approximately USD6.3 million or EUR5.6 million), has been set at TRY1 billion (approximately USD25.3 million or EUR22.4 million); the aggregate Turkish turnover threshold for the parties to a concentration, previously TRY750 million (approximately EUR16.8 million or USD19 million), has been increased to TRY3 billion (approximately USD76 million or EUR67.2 million); and the global turnover threshold for at least one of the other parties to the transaction, previously TRY3 billion, has been increased to TRY9 billion (approximately USD228.2 million or EUR201.6 million.

Changes to the sectoral merger control regime

The Amended Communiqué No 2010/4 also revised rules for undertakings operating in the field of digital platforms, software or gaming software, financial technologies, biotechnology, pharmacology, agricultural chemicals or healthcare technologies, or their related assets. Accordingly, in merger transactions where at least one of the transaction parties is an undertaking established or located in Türkiye and active in the fields described above or assets related to those fields, and in transactions involving the acquisition of such undertakings, the TRY1 billion thresholds set out above shall be applied as TRY250 million, for the transaction party subject to the acquisition (ie, the target).

Simplified template notification form

The Amended Communiqué No 2010/4 also simplified the template notification form by removing certain information requirements and reducing the level of detail required where the parties' combined market share is below 15% in horizontally affected markets and the market share of a transaction party is below 20% in vertical relationships in Türkiye. It also introduces greater procedural convenience for acquisitions made by venture capital investment trusts, venture capital investment funds and private equity investment vehicles. In particular, for filings including these parties, the scope of information required in the notification form is limited to their activities and turnover in Türkiye. Accordingly, they are not required to submit detailed information regarding their global activities. Where the undertakings confirm that their worldwide turnover exceeds the applicable global threshold, it will be sufficient to provide only their turnover in Türkiye.

The Amended Communiqué also clarifies certain aspects of joint venture assessments, particularly in relation to potential co-ordination risks among parent companies and provides that ongoing reviews falling below the revised thresholds may be terminated.

Refining the Analytical Framework: Updated Merger Control Guidelines

Alongside these legislative changes, the TCA has also revised several key merger control guidelines, including "the Guidelines on Cases Considered as Mergers or Acquisitions and the Concept of Control", "the Guidelines on Undertakings Concerned, Turnover and Ancillary Restraints", and "the Guidelines on the Assessment of Horizontal and Non-Horizontal Mergers". These updates, published on 4 May 2026, provide important clarifications that refine the analytical framework applied in merger control, particularly in relation to turnover calculation, joint venture structures and the assessment of competitive effects, and signal a more structured and effects-based analytical approach. The updated guidelines and the principal amendments introduced thereunder are as follows.

Guidelines on Cases Considered as Mergers or Acquisitions and the Concept of Control

The Amended Guidelines on Cases Considered as Mergers or Acquisitions and the Concept of Control (the "Amended Control Guidelines") have clarified that the provision set out under Article 8 (5) of the Amended Communiqué No 2010/4, which stipulates that two or more transactions carried out within a three-year period between the same persons or parties, or by the same undertaking in the same relevant product market, shall be considered as a single transaction for the purpose of turnover calculations, also applies to transactions concerning the establishment of joint ventures.

Guidelines on the Undertaking Concerned, Turnover and Ancillary Restraints in Mergers and Acquisitions

The TCA has updated the Guidelines on Undertakings Concerned, Turnover and Ancillary Restraints (the "Amended Turnover Guidelines") to provide further clarification on key aspects of turnover calculation and the identification of undertakings concerned.

Firstly, the Amended Turnover Guidelines clarify the definition of the transaction party concerned in parallel with the amendments introduced to the Amended Communiqué No 2010/4. Accordingly, in acquisitions, for the acquirer side, the transaction parties are determined as the broader economic entities to which each undertaking concerned belongs. In terms of the target side, the transaction party is considered as the target undertaking along with the economic unit it controls.

Secondly, additional explanations and examples have been introduced with respect to joint venture cases. In the case of newly established joint ventures, the joint venture itself is not considered as an undertaking concerned, as it does not yet generate turnover; instead, the parent companies are considered. By contrast, where joint control is acquired over an existing undertaking, both the acquiring parent companies and the target undertaking qualify as undertakings concerned.

Thirdly, it has been clarified that Turkish turnover should also be included in the calculation of worldwide turnover.

Fourthly, the turnover calculation for technology undertakings has been specified. The Amended Turnover Guidelines specify that, in the acquisition of technology undertakings, the turnover is calculated based on revenues generated from activities in digital platforms, software and gaming software, financial technologies, biotechnology, pharmacology, agrochemicals and health technologies.

Finally, clarification has been provided as to when the three-year period set out under Article 8 (5) of the Amended Communiqué No 2010/4 commences. Accordingly, the three-year period set out under Article 8 (5) of the Amended Communiqué No 2010/4 is to be calculated based on the date on which the notification is submitted to the TCA.

Guidelines on the Assessment of Horizontal Mergers and Acquisitions and Guidelines on the Assessment of Non-Horizontal Mergers and Acquisitions

The principles regarding the assessment of the co-ordinated effects that may arise between parent undertakings due to a joint venture have been explained in the Amended Guidelines on the Assessment of Horizontal Mergers and Acquisitions (the "Amended Guidelines on Horizontal Mergers") and Guidelines on the Assessment of Non-Horizontal Mergers and Acquisitions (the "Guidelines on Non-Horizontal Mergers"). Within this framework, the risk of co-ordination between parent undertakings may arise, particularly where the parent undertakings continue to operate in the same market as the joint venture, have significant activities in closely related neighbouring markets or are connected through existing structural or contractual links. Moreover, the risk of co-ordination may also increase where the joint venture acts as a key supplier or customer for the parent undertakings.

All in all, the Amended Guidelines primarily reflect the recent amendments introduced to the Amended Communiqué No 2010/4 earlier this year and provide further legal clarity regarding turnover calculations, the definition of transaction parties, the treatment of joint venture transactions and the TCA's approach to the assessment of potential co-ordination risks between parent undertakings.

Notable Recent Board Decisions

According to the 2025 Mergers and Acquisitions Outlook Report, the Board reviewed a total of 416 transactions in 2025, representing the highest annual deal volume recorded since 2013.

Two of the more prominent Board decisions in the recent past are set out below.

Team.blue/Ticimax Decision (Decision 25-38/899-527 of 9 October 2025)

In its recent *Team.blue/Ticimax* decision, the Board conditionally approved the transaction concerning the acquisition of sole control over Ticimax Bilişim Teknolojileri Anonim Şirketi ("Ticimax") by Team.blue EquityCo S.a.r.l. ("Team.blue") within the scope of its Phase I review on 9 October 2025. In its substantive assessment in terms of the affected market, the Board determined that the parties' activities do not horizontally overlap in Türkiye. On the other hand, the Board identified a vertical relationship between Ticimax's activities in the downstream market for "ready-to-use e-commerce software and infrastructure provision services" and Team.blue's activities in the upstream market for "data centre services".

While the Board indicated that the transaction does not give rise to any anti-competitive concerns in terms of the co-ordinated effects, customer foreclosure concerns or any input foreclosure concerns, the Board assessed that Ticimax's access to (i) customer contact information included in domain lists, (ii) technical and operational data relating to customers, and (iii) commercial and/or strategic data relating to customers via Team.blue's database post-transaction would lead to competitive concerns.

The Board considered that access to customer contact information included in domain lists could enable Ticimax to target competitors' customers in the long term and thus, disrupt the competitive balance in the market to the detriment of other providers of e-commerce software and infrastructure. The Board further assessed that access to customers' technical and operational data could allow Ticimax to predict switching tendencies of the customers of its competitors and directly target and win those customers, thereby increasing its customer foreclosure ability in the long term. In addition, the Board considered that Team.blue's access to non-anonymised customer data of Ticimax's competitors through its hosting and data centre services could create a risk of competitively sensitive information being shared with Ticimax. The Board further underlined that the fact that data sharing is legally or contractually limited does not mean that its potential competitive impact does not need to be assessed.

To eliminate competitive concerns as a result of the transaction, Team.blue submitted a set of behavioural remedies with a duration of two years designed to ensure that Ticimax would not have access to trade secrets and/or competitively sensitive information concerning its competitors active in the e-commerce software and infrastructure service sector via Team.

blue's database after the completion of the transaction. These included Team.blue's Turkish subsidiary (Çizgi) and Ticimax continuing to operate as separate legal entities with distinct management teams and separate customer databases, and reinforced data protection obligations under existing privacy arrangements. In addition, the commitments also stipulated that Team.blue would implement several measures to prevent unauthorised access to customer databases, including

- measures preventing cross-access to customer databases through user codes;
- restricting database access to authorised personnel only;
- ensuring Ticimax performs its software development exclusively with its own employees and suppliers;
- prohibiting shared user credentials;
- requiring two-factor authentication where possible;
- maintaining immutable access logs;
- implementing firewall protections within six months of closing; and
- ensuring Ticimax customers remain free to choose alternative domain name service providers rather than being directed solely to Çizgi.

The Board determined that the commitments stipulating that Ticimax could only access the data of its own customers and that there would be no information exchange or integration between Ticimax and Çizgi post-transaction were effective measures to eliminate potential competitive concerns. The Board also indicated that this structural separation was critical to prevent direct or indirect information flows and would prevent any asymmetric-information advantage post-transaction. In this respect, the Board determined that the commitments were sufficient to eliminate the competitive concerns arising as a result of the transaction and conditionally approved the transaction subject to the commitments within its Phase I review.

HIB Holding/Andar (Decision 25-32/760-451 of 28 August 2025)

In its *HIB Holding/Andar* decision, the Board determined that the transaction concerning the acquisition of 51% of the shares in Andar Elektromekanik Sistemler Sanayi ve Ticaret AŞ ("Andar") by H. Ibrahim Bodur Holding AŞ ("HIB Holding") did not constitute a concentration under the Turkish merger control regime given that the transaction would result in a "shifting alliances structure". As a result of its assessment under Article 4 of Law No 4054, which prohibits anti-competitive agreements, the Board granted negative clearance to the transaction on the grounds that it does not have the object or effect of restricting competition.

The transaction concerned the acquisition of 51% of Andar's shares by HIB Holding. Post-transaction, Andar's existing shareholders (ie, Mr Serkan Kale, Mr Reşat Hakan Avcı and Mr Gökhan Koyuncu) will continue to own the remaining shares in Andar. According to the decision, within the scope of the merger control filing, HIB Holding argued that – post-transaction – Andar will be solely controlled by HIB Holding.

In its assessment of the control structure, the Board examined the share purchase agreement (SPA) between HIB Holding and the existing shareholders of Andar. According to the share purchase agreement:

- post-transaction, the shareholders of Andar will be divided into two groups, and HIB Holding will be the Group A shareholder while the existing shareholders of Andar will be Group B shareholders;
- the board of directors of Andar will consist of five members, and HIB Holding will appoint three directors while Group B shareholders will appoint two directors;
- in the event that the members nominated by Group B shareholders are Mr Serkan Kale, Mr Reşat Hakan Avcı and Mr Gökhan Koyuncu, HIB Holding will not have a veto right over the appointment of these members nor can it vote against the dismissal and change of these members; and
- ordinary decisions of the board will be adopted by simple majority (ie, an affirmative vote of three members) while important decisions of the board will be adopted by a qualified majority (ie, an affirmative vote of four members).

In line with the quorum requirements stipulated for important decisions of the board of directors, HIB Holding will require the affirmative vote of at least one of the two board members appointed by Group

B shareholders. The Board evaluated that decisions related to significant changes in the annual budget, R&D plans and the three-year business plan as well as the conclusion of R&D (product development) agreements, which are envisaged as important decisions in the SPA, can be considered as strategic commercial decisions. Given that (i) there are no links/ties between Group B shareholders, (ii) there are no provisions which stipulate that Group B shareholders will act together, and (iii) each Group B shareholder can act individually in the adoption of strategic decisions, the Board evaluated that the required majority for strategic commercial decisions of Andar can be achieved by different coalitions/alliances on each occasion. As a result, the Board concluded that given that the transaction would result in a shifting alliances structure, the transaction would not be deemed as a concentration within the meaning of Communiqué No 2010/4.

Accordingly, the Board assessed the transaction as an agreement between the parties and analysed whether it would fall within the scope of Article 4 of Law No 4054. Following its substantive assessment, the Board found that there were no horizontal overlaps or vertical relationships giving rise to competition concerns and concluded that the transaction did not have the object or effect of restricting competition, granting negative clearance.

This decision is notable for the Board's analysis of the control structure of Andar post-transaction (in particular, the assessment of a shifting alliances structure).

CHAMBERS GLOBAL PRACTICE GUIDES

Chambers Global Practice Guides bring you up-to-date, expert legal commentary on the main practice areas from around the globe. Focusing on the practical legal issues affecting businesses, the guides enable readers to compare legislation and procedure and read trend forecasts from legal experts from across key jurisdictions.

To find out more information about how we select contributors, email Luke.Wilson@Chambers.com