

# Competition Board evaluates age restrictions for footballers

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## Introduction

The Competition Board has re-evaluated a case against the Turkish Football Federation (TFF) following the Administrative Court's decision<sup>(1)</sup> to repeal a previous board decision<sup>(2)</sup> on the grounds that the TFF's measures were within the scope of Law 4054 on the Protection of Competition. In its repealed decision, the board had decided that the TFF was not an 'undertaking' within the meaning of Article 3 of Law 4054. Following the Administrative Court decision, the board initiated a pre-investigation into the allegation that the TFF's imposition of age restrictions and quotas on footballers in their contracts with football clubs was anti-competitive and prevented players and clubs from freely conducting economic activities.

## Age and quota restrictions

Since 2008 the TFF has imposed age restrictions and quotas on football clubs in the Third League and the Regional Amateur League to regulate the access that professional and semi-professional footballers have to the employment market. The regulation sets the age limit to play in the Third League at 25. However, each club can employ up to six footballers aged between 25 and 30, and footballers older than 25 under existing contracts are not affected by the regulation until their contract ends. It was argued that the TFF's measures restricted the transfers and contracts of footballers, as well as the freedom of football clubs to purchase players; thus, it impeded competition without any objective justification.

## Competition Board assessment

The board noted that football clubs established corporations and were active in several economic areas, such as:

- player transfers;
- player licensing rights; and
- the sale of licensed products.

The board indicated that each of these activities must be assessed as a separate market with regard to its supply and demand structure. In the present case, the board defined the relevant product markets as football transfers, relating to the economic activities of football clubs, and footballer activities, relating to the economic activities of footballers.

## *TFF's legal status*

In its assessment, the board indicated that the TFF was an autonomous, private and legal person established by law. Further, the board stated that to assess the age restriction and quota regulations under competition law, the TFF's legal status (ie, as an undertaking or an association of undertakings)

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had to be determined. The board noted that a legal entity's status as an undertaking did not depend on whether its activities in various areas constitute economic activity; rather, it depended on whether its particular conduct under assessment is linked to an economic activity. In a previous decision, the board deemed that the TFF was an undertaking due to its case-specific economic activity involving the right to launch a tender for televisions broadcasting rights.<sup>(3)</sup> However, in the case in question the board concluded that the TFF was not an undertaking within the meaning of Law 4054, on the grounds that the regulation at hand could not be deemed a provision of goods or services or any other activity that generated income for the TFF, and that the TFF was merely exercising its regulatory function and power.

As regards whether the TFF was an association of undertakings, the board noted that an entity must be comprised of undertakings to qualify as such. Instead, pursuant to the TFF's statute, its listed members were professional football clubs, amateur sports clubs, the Turkish Association of Active Football Referees and Observers, individuals serving on the Fédération Internationale de Football Association and the Union of European Football Associations executive committees and other individuals whom congress has admitted as members. The board stated that the TFF protected a public interest by its practice subject to allegations and not the interests of its members. Although the board hinted that it did not consider the TFF to be an association of undertakings in the case at hand, it based its competitive analysis on the decision of the Administrative Court, which had reached the opposite conclusion.

### ***Characteristics of leagues***

In its assessment, the board emphasised that the restrictions affected clubs and players in the Third League and the Regional Amateur League. Therefore, the characteristics of these leagues had to be considered. The TFF argued that regulations were implemented to transform the leagues into a bridge between the amateur and professional leagues, in which players can train and prepare for a professional career. The TFF also argued that the players in the Third League were older and could not contribute to the development of football, and that younger amateur footballers lost their enthusiasm for football due to the lack of opportunities.

The TFF explained that the restrictions aimed to encourage footballers who would eventually compete in the Premier League and the First League. The board stated that even though the number of young players in the upper leagues had increased following the 2008-2009 season – demonstrating that the TFF's measures had been successful – the result of the restrictions was irrelevant in terms of competition law.

### **Findings**

The board stated that, pursuant to competition law principles, footballers can be regarded as undertakings – particularly during transfer windows – and as parties to sponsorship agreements where they act independently from football clubs. The board further indicated that the restrictions did not impede the freedom of footballers to work or the activities of football clubs, as their scope was limited (ie, the restrictions concern only the Third League and the Regional Amateur League and older players could still play in the upper leagues), and there were exceptions as noted above. Further, as the TFF argued, the board expressly stated that the arbitral tribunal had found the age restrictions to be legal. Accordingly, in the board's view, the restrictions fell under the scope of the TFF's authority and duties under the law and its objective to train young footballers. Therefore, the restrictions were proportionate to the regulation's aim. As a result, the board concluded that the regulation did not restrict competition in any of the relevant product markets and that a fully fledged investigation was unnecessary.

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### **Endnotes**

(1) October 31 2014, 2013/1626 E 2014/1494 K.

(2) August 19 2013, 1-55/774-M.

(3) April 30 2012, 12-23/659-181.

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