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Turkish Antitrust: An overview of national case law

DOMINANCE (ABUSE), DOMINANCE (NOTION), PROFESSIONAL ASSOCIATION, CARTEL, VERTICAL RESTRICTIONS, FOREWORD, TURKEY, THRESHOLDS, MERGER (NOTION), CHANGE OF CONTROL, REFORM, SIEC TEST (MERGER), ANTICOMPETITIVE OBJECT / EFFECT, PUBLIC UNDERTAKING, COMPETITION POLICY, GUN JUMPING

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1. Introduction

This Special Issue aims to provide detailed insight into the contemporary approaches adopted by the Turkish Competition Board ("**Board**"), the decisional body of the Turkish Competition Authority ("**Authority**") regarding anticompetitive agreements, unilateral conduct and mergers.

The approaches adopted by the Board in its recent precedent are heavily influenced by global trends such as the close scrutiny over digital players as well as increasing attention towards competition law issues concerning labour markets. The substantive analysis regarding the anticompetitive agreements, unilateral conduct, and mergers has been shaped by Law No. 4054 on the Protection of Competition ("**Law No. 4054**") as well as the secondary legislation. Further to Law No. 4054, there are several mechanisms for the Authority to focus on and to streamline certain of its processes, such as the use of the *de minimis* principle in its cases, "significant impediment of effective competition" ("**SIEC**") test for merger control, behavioural and structural remedies for anti-competitive conducts, and procedural tools including leniency, commitment and settlement mechanisms.

Since the amendments to Law No. 4054 were introduced, the Authority promulgated Communiqué No. 2021/3 on De Minimis Applications for Agreements, Concerted Practices and Decisions of Associations of Undertakings ("**Communiqué No. 2021/3**"), Communiqué No. 2021/2 on Remedies for Preliminary Investigations and Investigations on Anticompetitive Agreements, Concerted Practices, Decisions and Abuse of Dominant Position ("**Communiqué No. 2021/2**") and the Regulation on the Settlement Procedures to be Applied during Investigations Regarding Anticompetitive Agreements, Concerted Practices and Decisions as well as Abuse of Dominance ("**Settlement Regulation**") to set out the principles and rules regarding these concepts. On March 4, 2022, 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 ("**Amendments Communiqué No. 2010/4**") was published on the Official Gazette. The Amendments to Communiqué No. 2010/4 increased the turnover thresholds which have remained the same for more than 9 years by considering the exchange and inflation rates increased significantly over the years. The rapid changes in the technology industries/sectors are again taken into account in the Amendments to Communiqué No. 2010/4 as it introduced a new merger control regime under which the Turkish turnover threshold

would not be sought for the undertakings that are active in terms of digital platforms, software and gaming software, financial technologies, biotechnology, pharmacology, agricultural chemicals and health technologies sectors or their assets related to these sectors based on certain circumstances regarding the nexus of their activities to the Turkish markets.

To that end, the articles within this Special Issue aim to reveal and explain the evolving efforts of the Board in establishing its case law in light of the amendments to the main and secondary legislation by way of also following global trends, as well as taking advantage of the well-established practices under the EU competition law regime in recent years, on various fronts.

2. Mergers & Acquisitions

a) Evaluation of Remedies

One of the most important developments in Turkish competition law concerns the evaluation of remedies. More specifically, the long-debated Luxottica/Essilor merger has been a real challenge particularly in Turkey, due to the Turkey-specific market conditions that were involved. The case, in which the Board eventually granted conditional approval, is a great example of multi-jurisdictional filing, given that it was filed with the European Commission, the U.S. Federal Trade Commission, as well as the competition authorities of Australia, Brazil, Canada, Chile, China, Israel, New Zealand, Singapore, and South Africa. Therefore, this case is considered to be unique due to the various assessments and regulatory outputs of the relevant competition authorities. In *Luxottica/Essilor*, [*1*] there were competitive concerns with respect to the conglomerate effects that could arise from the integrated portfolio, due to the horizontal overlaps within the markets for "the wholesale of branded sunglasses" and "the wholesale of branded optical frames," as well as the market for "ophthalmic lenses" in Turkey. The Board took the transaction into a Phase II review, where the parties proposed several structural and behavioural remedies to address the competitive concerns stemming from the horizontal and conglomerate effects of the transaction.

Furthermore, the respective articles regarding the Board's *Nidec/Embraco* and *Valeo/FTE Group* decisions also aim to set forth the Board's competitive analysis within the scope of the dominance test, with a particular focus on the evaluation of the potential effects of global remedies in Turkey. To that end, both the *Nidec/Embraco* decision [*2*] and *Valeo/FTE Group* decision [*3*] reinforce the Board's case law setting forth that the Board could approve a concentration by way of considering the Turkey-specific effects of the remedies submitted before the Commission or other antitrust authorities abroad. Moreover, a more recent article regarding the Board's *Ferro/American Securities* decision [*4*] also focuses on the Board's assessment of the acquisition of sole control over Ferro by American Securities and its conditional approval on the transaction subject to the remedies submitted by the parties to the Commission on the grounds that the remedies removed the entire horizontal overlap between the parties in the horizontally affected markets in Turkey.

b) Evaluation of State-owned Enterprises as Separate Undertakings

Under the Turkish merger control regime, there is no explicit regulation on concentrations between state-owned enterprises, unlike paragraphs 52 and 53 of the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings. That being said, it should be noted that, in accordance with Articles 2 and 3 of Law No. 4054, an undertaking is defined in Turkish competition law as natural and legal persons which produce, market and sell goods or services in the market, and units which can decide independently and constitute an economic whole. To that end, so long as state-owned enterprises have the ability to take decisions on an independent basis, such enterprises should be considered as separate undertakings from an antitrust standpoint, in terms of the possible transactions that they may be involved in.

On this front, the articles regarding the Board's *Saudi Aramco/Saudi Basic Industries* and *CNNC Capital/Tongfang* decisions highlight and clarify the Board's approach regarding the evaluation of whether or not undertakings that are parties to a concentration, which are directly or indirectly controlled by the same state, would be regarded as interdependent undertakings within the scope of a single economic unit. In the *CNNC Capital/Tongfang* decision, [***5***] the Board took into account whether the Chinese government was entitled to elect and appoint the members of the board of directors of the transaction parties when designating them as separate entities. On the other hand, in the *Saudi Aramco/Saudi Basic Industries* decision, [***6***] the Board considered the level of the transaction parties' interdependency on the basis of their management structures, financial results, as well as the procedures in place for the exchange of information between them and their respective legal actions, before ultimately resolving that they were not part of the same controlling undertaking.

c) Assessment on Change of Control and Ancillary Restraints

The articles regarding the Board's *Kerry Logistics/Asav HoldCo* and *Jacobs Douwe Egberts* decisions emphasize and illuminate the Board's evaluations with regard to "change of control" issues. In the *Kerry Logistics/Asav HoldCo* decision, [***7***] the Board made its assessment on whether the duration of an interim period for three years constituted a change of control on a lasting basis, despite the general rule limiting such interim periods to one year. In its decision, the Board deemed that the 3-year period would not constitute a change of control on a lasting basis, taking into account (i) the parties' ultimate intentions for the original scheme of the transaction as a whole, (ii) the transitory nature of the interim period, and (iii) the legally binding relationship between the parties with regard to the interim period and consummation of the transaction. In its *Jacobs Douwe Egberts* decision, [***8***] the Board concluded that the acquisition of 30% of the shares in Jacobs Douwe Egberts TR Gıda ve Ticaret A.Ş. by the Kasap Family constituted the acquisition of joint control, despite the parties' statements that there was no change of control on a lasting basis and their contention that the concentration would therefore not require a mandatory merger control filing.

The article regarding the Board's *Cinven/Vakıf/Barentz* decision [***9***] is also of considerable importance, as it underlines the Board's approach regarding relatively complex control structures and highlights its detailed analysis of (i) changes in control, (ii) joint control structures which involve veto rights, and (ii) the full-function nature of the joint venture.

As for ancillary restraints, the *Air France/Virgin Atlantic* decision [***10***] is noteworthy, as it clearly sets forth the Board's approach indicating that the Board would not deem those provisions of the transaction agreement, which pertained to the information exchange between the competitors and joint strategies on pricing, marketing and sales, as ancillary restraints.

d) Sector-specific Evaluations

The articles regarding the Board's *MIH PayU/Iyzi Ödeme* and *Van Leeuwen/Benteler* decisions demonstrate the Board's in-depth assessments of merger transactions, taking into account specific characteristics of the relevant sector. The *MIH PayU/Iyzi Ödeme* decision [***11***] relates to the fledgling FinTech market In Turkey, and it presents the Board's analysis on product market definition and market share calculation in the payment systems sector, which display ever-changing and evolving characteristics, and the evaluation of the parties' market powers in the financial technology markets through the application of different market share calculation methods. To that end, the Board established the general principles for the assessment of market power for e-payment services, taking into consideration the various market-specific characteristics to assess the competitive nature of the market in question. The *Van Leeuwen/Benteler* decision [***12***] is also pertinent in terms of providing an instructive precedent for assessing the iron and steel sector, referring to the Commission's settled practice in its precedents on this front.

e) Local Turnover Threshold Exception

Further to Amendments Communiqué No. 2010/4, the 250 million Turkish Lira turnover threshold is not be sought for the transactions concerning acquisition of the undertakings that are active in terms of digital platforms, software, gaming software, financial technologies, biotechnology, pharmacology, agricultural chemicals and health technologies sectors or their assets related to these sectors, (i) which are active in the Turkish geographical market or (ii) which conduct research and development activities in Turkey or (iii) which provide services to users in Turkey.

The article regarding the Board's *Providence/Airties* decision aims to provide further information on the scope of the local turnover threshold exception. Although it is not the first decision in which the Board assessed exceptional sectors, *Providence/Airties* decision [***13***] provides further guidance on the scope of activities that fall within the scope of the exception, and clarifies the specific nature and scope of the activities of undertakings operating in the software sector.

f) Evaluation of Creeping Transactions and Gun-Jumping

Communiqué No. 2017/2 on the Amendment of Communiqué No. 2010/4 ("**Communiqué No. 2017/2**") introduced three specific amendments to Communiqué No. 2010/4 in 2017. The most significant amendment was related to the control of creeping acquisitions, which foresees a statute of limitations of 3 years—instead of 2 years—for transactions to be realized within the same relevant product market by the same undertaking to constitute a single transaction.

In this respect, the *MP Hotel/Magic Life/TUI Blue/Alaçatı Beach* decision [***14***] is one of the Board's exceptional decisions, as it provides valuable guidance regarding "creeping transactions." Furthermore, as a guide for future transactions, the decision provides comprehensive explanations on the applicability of the principle of non-retroactivity, regulated under criminal law, by taking into consideration the Board's and the Council of State's precedents.

In terms of gun-jumping, under the Turkish merger control regime, there is an explicit suspension requirement (*i.e.*, a transaction cannot be closed before obtaining the approval of the Turkish Competition Board), which is set out under Article 11 of Law No. 4054 and Article 10(5) of Communique No. 2010/4.

In its *Akdağ Beton/Şenerler Beton/Saray Beton/Sarıkaya Beton/Üç Yıldırım* decision [***15***] regarding the three stand-alone transactions, the Board did not assess the transactions carried out by the same acquirer in the same product market under the concept of "creeping transactions." Rather, the Board evaluated the transactions under the concept of "gun-jumping," and proceeded to determine that the jurisdictional thresholds had not been exceeded in this case. Therefore, this decision is also significant in terms of demonstrating the Board's rigid approach to the concept of gun-jumping.

3. Anticompetitive Practices

a) Vertical Restraints

The Board's precedent is also developed and expanded in terms of other aspects of competition enforcement, including vertical restraints. In this regard, the Board has looked into Article 4 of Law No. 4054 through restrictive practices pertaining to the active and passive sales of the dealers in its *Qua Granit* decision, [***16***] and decided to issue an opinion letter to Qua Granit on the issue. The decision is one of the examples in that the Board decided to issue an opinion letter rather than initiate a full-fledged investigation, even though there was concrete evidence demonstrating the existence of anti-competitive restrictive practices.

As for resale price maintenance, the Board adopted its first settlement decision by way of its *Philips* decision (dated 05.08.2021, numbered 21-37/524-258) which concerned allegations that Philips violated Article 4 of Law No. 4054 using practices aiming to restrict its authorised dealers' online sales and resale prices. The Board decided that the investigation should conclude with a settlement for Philips and its authorised dealers per the settlement letters submitted by the respective undertakings. Similarly, in its *Arnica Pazarlama* decision, [***17***] the Board also decided to apply a 25% reduction, which is the maximum rate allowed under the Settlement Regulation, over the administrative fine determined to be imposed on Arnica, of which the actions were shaped by its strategy to determine the resale price of authorized dealers.

Also, in its *Olka/Marlin* decision the Board assessed the allegations that Olka (which had been distributing products branded Skechers in Turkey) and Marlin (which had been distributing products branded Asics and Fila in Turkey) had been restricting online sales through online marketplaces for over two years. In the relevant decision, the Board considers resale price maintenance practices as a by-object restriction in line with its precedent where the restrictions imposed on online sales were categorised within the scope of the restriction of passive sales. In a similar vein, the Board in its *DYO* decision [***18***] decided that resale price maintenance is considered as a by-object restriction of the competition by also fortifying that such a violation is classified as a hard-core violation and precluded from the commitment mechanism and *de minimis* rule. Having said that, in the 13th Chamber of the Council of State's decision regarding the Board's *Henkel* decision (dated 19.09.2018, numbered 18-33/556-274) in which the Board imposed an administrative monetary fine on Henkel based on the grounds that it had determined the resale prices, the 13th Chamber of the Council of State found the Board's decision unlawful by ruling that the alleged resale price maintenance violation was not proved with clear and tangible evidence. Based on this, the 13th Chamber of the Council of State's *Henkel* decision [***19***] might change the Board's approach in terms of resale price maintenance to a more effect-based analysis by setting a high bar for the standard of proof to establish this sort of infringement.

In its *Monsanto* decision, [***20***] the Board assessed the request for granting a negative clearance or exemption in favour of the additional protocol amending the dealership and running account agreement between Monsanto and its 11 dealers. The additional protocol included guidelines for recommended and maximum resale prices. In its decision, the Board determined that article 4 of Law No. 4054 applied to the additional protocol's provisions regarding the recommended resale price and the maximum resale price and therefore negative clearance was not possible for the additional protocol. That being said, the Board decided that additional protocol benefitted from the protective cloak of the Block Exemption Communiqué on Vertical Agreements No. 2002/2 due to Monsanto's market share in the Turkish market for the relevant product and the dealers' freedom and independence to set the resale prices.

b) Horizontal Agreements and Concerted Practices

The Board's *FMCG* decision (dated 28.10.2021, numbered 21-53/747-360) assessed allegations against a large number of global and local undertakings active in FMCG business in Turkey with respect to price fixing. The decision is of importance as the investigation was initiated mainly based on Authority's observations following the COVID-19 pandemic that there have been supply constraints due to the pandemic and certain complaints. Further to its assessment, the Board decided to impose administrative monetary fine on A101, BIM, Carrefour, Migros, Şok and

Savola for involving in a cartel, and separately on Savola for its resale price maintenance practices. The decision is of great importance for providing critical remarks clarifying the competitive rules in terms of information exchange at horizontal level as well as vertical level.

c) Decisions of Associations of Undertakings

IMDER decision [***21***] involves the Board's negative clearance/individual exemption assessment with respect to an information exchange scheme between the members of the association which concerned the exchange of reports related to their business activities through an online platform. The information exchange scheme proposed by IMDER has been rejected by the Board for restricting the competition more than necessary to the attainment of the objectives pursued due to its dynamics propounding an exchange of information making the market more transparent.

4. Abuse of Dominance

In its *Yemek Sepeti* decision, [***22***] the Board considered the allegation that Yemek Sepeti has engaged in exclusionary practices in violation of Article 6 of Law No. 4054 and abused its dominant position. Even though the Board did not decide to initiate a full-fledged investigation against Yemek Sepeti, the decision is of importance as it provides an extensive assessment regarding the impact of special offers/discount campaigns in the market for online food order/delivery platform services and exemplifies the shift in market dynamics.

In its *Nadirkitap* decision (dated 07.04.2022, numbered 22-16/273-122), the Board determined that the company had violated Article 6 of Law No. 4054 through restricting access to and portability of the book data that the seller's members upload to nadirkitap.com without a valid reason and imposed an administrative fine. The decision lays out the crucial significance of data in digital markets, especially those that are multisided, and offers insightful assessments of the anticompetitive effects of restrictions on data portability in these markets.

The article on the Board's full-fledged investigation against *Philips [23]* into allegations of abuse of dominance through denying or delaying access to codes and activation tools required for the maintenance and repair of medical imaging devices is expected to set a landmark precedent on the Board's approach on the use of password mechanisms and access provision of the device manufacturers operating in the medical imagining and diagnostic devices market.

The Board re-examined the allegations against Siemens concerning abuse of dominance by way of excluding the competitors, engaging in discriminatory practices, and violating the obligations which had been stipulated in previous Board decisions against Siemens. [***24***] While the Board concluded that Siemens did not violate Article 6 of Law No. 4054, the decision is noteworthy as it includes comprehensive assessments on competition law concerns in the after-sales market.

Since its introduction, there has been a surge in interest among the undertakings regarding the commitment mechanism. In this respect, the Board has embraced this new tool to achieve efficiency gains and allow the competition investigations to close at an earlier phase without going through the whole process. A good example is the Board's *Coca Cola* decision, [***25***] which deals with the allegations that Coca Cola infringed Article 4 and Article 6 of Law No. 4054 by adopting de facto exclusivity practices and restricting competitor sales to end sales points. The Board accepted Coca Cola's commitments proposal as the commitments offered and subsequently agreed by Coca Cola were deemed to address the concerns raised by the Authority and as a result, Coca Cola became one of the first firms to benefit from the commitment mechanism. Similarly, the Board's *Şişecam* decision [***26***] is a landmark decision where the commitments offered by an undertaking were accepted within the preliminary investigation

period for the first time. The preliminary investigation concerned the allegations that *Şişecam* abused its dominant position in the market for glass manufacturing, by way of excluding its competitors in the upstream market for recycled glass, utilized its buyer power to narrow the margin between its competitors' input and output and aggravated their activities through restricting their supply of waste glass.

The Board has also been visibly more inclined to resort to interim measures to prevent damages in particular in digital markets. This is not in the least surprising as the Board's approach towards digital markets has previously shown indications of getting stricter through the Board's recent decisions, sector inquiries, and efforts towards a legislation change in digital markets. In line with this tendency, the Board launched a fully-fledged investigation, ex officio, against Facebook to assess whether Facebook had violated Article 6 of Law 4054. [*27*] Moreover, the Board imposed an interim measure against WhatsApp pursuant to Article 9 of Law 4054 after WhatsApp amended its terms of use and privacy policy to require its users to share data with other Facebook companies. [*28*] This decision is important as it is the first example in which the Board has taken a dive into the interface between data protection and competition law. Another notable point is that the board assumed jurisdiction over the matter at breakneck speed – in only two days – and in a determined manner, which is also unusual considering the board's practice so far. Furthermore, the Board assessed in its *Trendyol* decision [*29*] that Trendyol's use of algorithms and handling of third-party data was aimed at favouring its products and discriminating between sellers on its platform, and decided to impose interim measures to address the alleged misconducts of Trendyol. *Trendyol* decision is of particular importance as it demonstrates the Board's approach towards the algorithm-based markets, which is a signal that the Board is following the recent developments in the sector very closely. The decision also indicates that the Board will not hesitate to impose interim measures, where necessary, with a view to maintaining effective competition in such dynamic markets.

5. The Board's Precedent on Procedures

Articles regarding the Authority's *Mey İçki* announcement [*30*] and the Turkish High State Court's decision regarding the Board's *Mey İçki* decision (dated 25.10.2017, numbered 17-34/537-228) aim to focus on the most prominent decisions in terms of procedures in Turkish competition law and to provide information on *non bis in idem* principle in Turkish competition law. In a nutshell, in 2011, the Authority initiated a preliminary investigation against Mey İçki to decide whether it violated Article 6 of Law No. 4054 in the Turkish market for rakı (traditional Turkish spirit). Afterwards, the Board found that there is no need for a full-fledged investigation. At that point, one competitor active in the same relevant product market initiated an appeal process against the Board's no-go decision. In November 2018, the High State Court decided to annul the Board's no-go decision with a majority of votes. Further to the annulment decision, In 2019, the Board initiated an investigation against Mey İçki to comply with High State Court's relevant decision, and found that Mey İçki holds dominant position in the rakı market, Mey İçki has violated Article 6 of Law No. 4054, and Mey İcki has been subjected to an administrative monetary fine for the consequences of the same strategy in the rakı market for the same period (2008-2011) and that there is no room for further administrative monetary fine imposition, through its decision (as an announcement) of March 12, 2021. The Board's decisions and the whole appeal process are of great importance as all of which demonstrate how "*non bis in idem*" principle should be applied.

The Board rendered several decisions over the last year with respect to hindering or complicating on-site inspection of the Authority. The article regarding Ankara 2nd Administrative Court's *Sahibinden* decision [*31*] provides information on the Authority's approach towards the deletion of any kind of information during an on-site inspection. The Ankara 2nd Administrative Court in its *Sahibinden* decision ruled on the stay of execution of the Board's fining decision imposing an administrative monetary fine on Sahibinden due to the deletion of WhatsApp messages during

the on-site inspection. Ankara 2nd Administrative Court stated in its decision that the case handlers could access the deleted conversations from the other employees' mobile devices, the deleted messages belonged to the employee's personnel mobile device and it did not include business-related matters.

In terms of providing false/misleading information, the Board in its *Martı* decision [*32*] decided to impose an administrative fine on Martı on the ground that the information submitted by Martı in response to the Authority's information requests constituted providing false/misleading information. The decision is important as it indicates that undertakings should ensure the accuracy and completeness of the data submitted to the Authority.

Note from the Editors: although the e-Competitions editors are doing their best to build a comprehensive set of the leading EU and national antitrust cases, the completeness of the database cannot be guaranteed. The present foreword seeks to provide readers with a view of the existing trends based primarily on cases reported in e-Competitions. Readers are welcome to bring any other relevant cases to the attention of the editors.

[*1*] See ***Gönenç Gürkaynak***, ***Eda Duru***, *The Turkish Competition Authority conditionally clears a merger, subject to certain structural commitments, in the design, manufacturing, and distribution of sunglasses and prescription optical glasses (Luxottica / Essilor), 1 October 2018, e-Competitions October 2018, Art. N° 96480.*

[*2*] See ***Gönenç Gürkaynak***, ***Onur Özgümüş***, *The Turkish Competition Authority approves the acquisition of a manufacturing company subject to commitments submitted to the EU Commission (Nidec / Embraco), 18 April 2019, e-Competitions April 2019, Art. N° 96477.*

[*3*] See ***Gönenç Gürkaynak***, ***Onur Özgümüş***, *The Turkish Competition Authority conditionally approves an acquisition of sole control in the market for passive hydraulic actuators, subject to the commitments submitted before the European Commission (Valeo / FTE), 26 October 2017, e-Competitions October 2017, Art. N° 96508.*

[*4*] See ***Gönenç Gürkaynak***, ***Efe Oker***, *The Turkish Competition Authority clears the acquisition for sole control of a porcelain producer by an American private equity firm following divestment commitments (Ferro / American Securities), 24 February 2022, e-Competitions February 2022, Art. N° 108838.*

[*5*] See ***Gönenç Gürkaynak***, ***Onur Özgümüş***, *The Turkish Competition Authority unconditionally approves an acquisition concluding that the parties, both controlled by Chinese State authorities, constitute separate entities (Tsinghua Tongfang / CNNC Capital), 31 October 2019, e-Competitions October 2019, Art. N° 96485.*

[*6*] See ***Gönenç Gürkaynak***, ***Onur Özgümüş***, *The Turkish Competition Authority approves a merger focusing its analysis on whether the two state-owned undertakings belong to the same economic unit and whether competition in the relevant product markets takes place on a global level due to their import-oriented nature (Sabic / Saudi Aramco), 29 August 2019, e-Competitions August 2019, Art. N° 96505.*

[*7*] See ***Gönenç Gürkaynak***, ***Onur Özgümüş***, *The Turkish Competition Authority accepts the transitory nature of joint control status despite a relatively long transition period in the transports market (Kerry Logistics / Asav), 4 July 2019, e-Competitions July 2019, Art. N° 96507.*

[8] See **Gönenç Gürkaynak**, **Onur Özgümüş**, *The Turkish Competition Authority does not fine the notifying party for providing misleading information and approves the acquisition (Jacobs Group / Kasap Family / Jacobs TR), 17 October 2018, e-Competitions October 2018, Art. N° 96504.*

[9] See **Gönenç Gürkaynak**, **Eda Duru**, *The Turkish Competition Authority approves the transaction concerning the indirect acquisition of joint control over a chemical company by an investment fund (Cinven / Vakıf / Barentz), 22 November 2019, e-Competitions November 2019, Art. N° 96510.*

[10] See **Gönenç Gürkaynak**, **Eda Duru**, *The Turkish Competition Authority approves the transaction concerning the acquisition of joint control over an airline company but gives a 'no-go' to certain provisions of the transaction agreement (Air France / Virgin Atlantic), 18 April 2019, e-Competitions April 2019, Art. N° 96500.*

[11] See **Gönenç Gürkaynak**, **Onur Özgümüş**, *The Turkish Competition Authority approves the acquisition of a company active in the FinTech sector (PayU / İyzico), 5 September 2019, e-Competitions September 2019, Art. N° 96546.*

[12] See **Gönenç Gürkaynak**, **Eda Duru**, *The Turkish Competition Authority approves the transaction concerning the indirect acquisition of control over a coal and steel company and its business unit for the distribution of steel pipes via a transfer of shares (Van Leeuwen / Benteler), 31 October 2019, e-Competitions October 2019, Art. N° 96511.*

[13] See **Gönenç Gürkaynak**, **Ebru Ince**, **Petek Guven**, **Cigdem Gizem Okkaoglu**, *The Turkish Competition Authority publishes new decision regarding local threshold exception for acquisitions in the software sector (Providence / Airties), 2 June 2022, e-Competitions June 2022, Art. N° 110672.*

[14] See **Gönenç Gürkaynak**, **Eda Duru**, *The Turkish Competition Authority approves the sole control acquisition of several resorts in the hospitality sector (MP Hotel), 22 November 2018, e-Competitions November 2018, Art. N° 96512.*

[15] See **Gönenç Gürkaynak**, **Eda Duru**, *The Turkish Competition Authority evaluates four stand-alone transactions in the construction sector after receiving a complaint and concludes that the transactions are not subject to approval given that the jurisdictional turnover thresholds are not met (Akdağ Beton / Şenerler Beton / Saray Beton / Sarıkaya Beton / Üç Yıldırım), 7 August 2019, e-Competitions August 2019, Art. N° 96513.*

[16] See **Gönenç Gürkaynak**, **Eda Duru**, *The Turkish Competition Authority issues an opinion letter regarding its preliminary investigation of a manufacturer of ceramic and granite products for restricting the active and passive sales of its dealers and for forcing consumers to purchase products within their provinces (Qua Granit), 26 December 2019, e-Competitions December 2019, Art. N° 95002.*

[17] See **Gönenç Gürkaynak**, **Beyza Nur Adıgüzel**, **Dilara Yesilyaprak**, *The Turkish Competition Authority issues a settlement decision following investigations on a home appliances manufacturer for resale price maintenance (Arnica Pazarlama), 30 September 2021, e-Competitions September 2021, Art. N° 108567.*

[18] See **Gönenç Gürkaynak**, **Fırat Eğrilmez**, *The Turkish Competition Authority imposes an administrative monetary fine on a major paint supplier for resale price maintenance and exclusive distribution (DYO), 15 April 2021, e-Competitions April 2021, Art. N° 105759.*

[19] See **Gönenç Gürkaynak**, **Görkem Yardım**, **Aydeniz Baytaş**, *The Turkish Supreme Court annuls the*

Competition Authority's decision to impose a fine on a manufacturer of personal and home care products for resale price maintenance and clarifies that RPM cases require an element of 'coercion' or 'incentive' (Henkel), 6 July 2021, e-Competitions July 2021, Art. N° 105193.

[*20*] See ***Gönenç Gürkaynak***, ***Cansu İnce***, *The Turkish Competition Authority emphasises importance of not turning recommended and maximum resale prices into price-fixing practices (Monsanto), 8 September 2022, e-Competitions September 2022, Art. N° 111128.*

[*21*] See ***Gönenç Gürkaynak***, *The Turkish Competition Authority rejects the information exchange scheme proposed by an online platform for failing to fulfill the individual exemption requirements (IMDER), 19 November 2020, e-Competitions November 2020, Art. N° 100832.*

[*22*] See ***Gönenç Gürkaynak***, ***Fırat Eğrilmez***, *The Turkish Competition Authority rejects allegation that an online food delivery company has abused its dominant position through most favoured customer practices and de facto exclusivity (Yemek Sepeti), 18 May 2022, e-Competitions May 2022, Art. N° 110461.*

[*23*] See ***Gönenç Gürkaynak***, *The Turkish Competition Authority closes an investigation regarding an alleged abuse of dominance through withholding access to codes and activation tools required for the maintenance and repair of medical imaging devices (Philips Turkey), 26 August 2021, e-Competitions August 2021, Art. N° 102175.*

[*24*] See ***Gönenç Gürkaynak***, ***Ceren Özkanlı Samlı***, ***Sinem Ugur***, *The Turkish Competition Authority re-examines allegations of exclusionary practices in the healthcare sector (Siemens), 19 November 2020, e-Competitions November 2020, Art. N° 99879.*

[*25*] See ***Gönenç Gürkaynak***, ***Dilara Yesilyaprak***, *The Turkish Competition Authority accepts a leading beverage company's commitments to remedy the competition concerns raised concerning its abuse of dominance in the carbonated drinks, cola drinks and aromatic carbonated drinks markets (Coca Cola), 2 September 2021, e-Competitions September 2021, Art. N° 104194.*

[*26*] See ***Gönenç Gürkaynak***, ***Öznur İnanılır***, ***Berfu Akgun***, ***Nil Zeren Ozdemir***, *The Turkish Competition Authority accepts for the first time in the preliminary investigation stage the commitments proposed by a glass manufacturing company to remedy the competition concerns relating to abuse of dominance in the glass production market (Şişecam), 21 October 2021, e-Competitions October 2021, Art. N° 104700.*

[*27*] See ***Gönenç Gürkaynak***, ***Eda Duru***, ***Betül Baş Çömlekçi***, *The Turkish Competition Authority announces its decision to launch a fully-fledged investigation against two Big Tech companies (Facebook / WhatsApp), 11 January 2021, e-Competitions January 2021, Art. N° 100031.*

[*28*] *Ibid.*

[*29*] See ***Gönenç Gürkaynak***, ***Ebru Ince***, ***Baran Can Yıldırım***, *The Turkish Competition Authority issues interim measures against a leading marketplace platform for its use of algorithms and third party data to achieve self-preferencing (Trendyol), 30 September 2021, e-Competitions September 2021, Art. N° 103818.*

[*30*] See ***Gönenç Gürkaynak***, *The Turkish Competition Authority closes an investigation against an alcohol manufacturer for alleged abuse of dominance in respect of the ne bis in idem principle (Mey İçki), 12 March 2021, e-Competitions February 2021, Art. N° 99670.*

[31] See ***Gönenç Gürkaynak***, ***Cansu İnce***, *The Ankara 2nd Administrative Court stays the imposition of a substantial fine for obstructing a dawn raid by deleting WhatsApp messages because the messages remained retrievable through other employees and were not relevant to the investigation (Sahibinden), 15 April 2022, e-Competitions April 2022, Art. N° 109176* .

[32] See ***Gönenç Gürkaynak***, ***Dilara Yesilyaprak***, ***Zeynep Ayata Aydoğan***, ***Beyza Nur Adıgüzel***, *The Turkish Competition Authority fines a leading electric scooter company for providing false and misleading information (Martı), 21 July 2022, e-Competitions July 2022, Art. N° 111410*.