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Merger Control 2025

21st Edition

Contributing Editors:

Nigel Parr & Steven Vaz

Ashurst LLP

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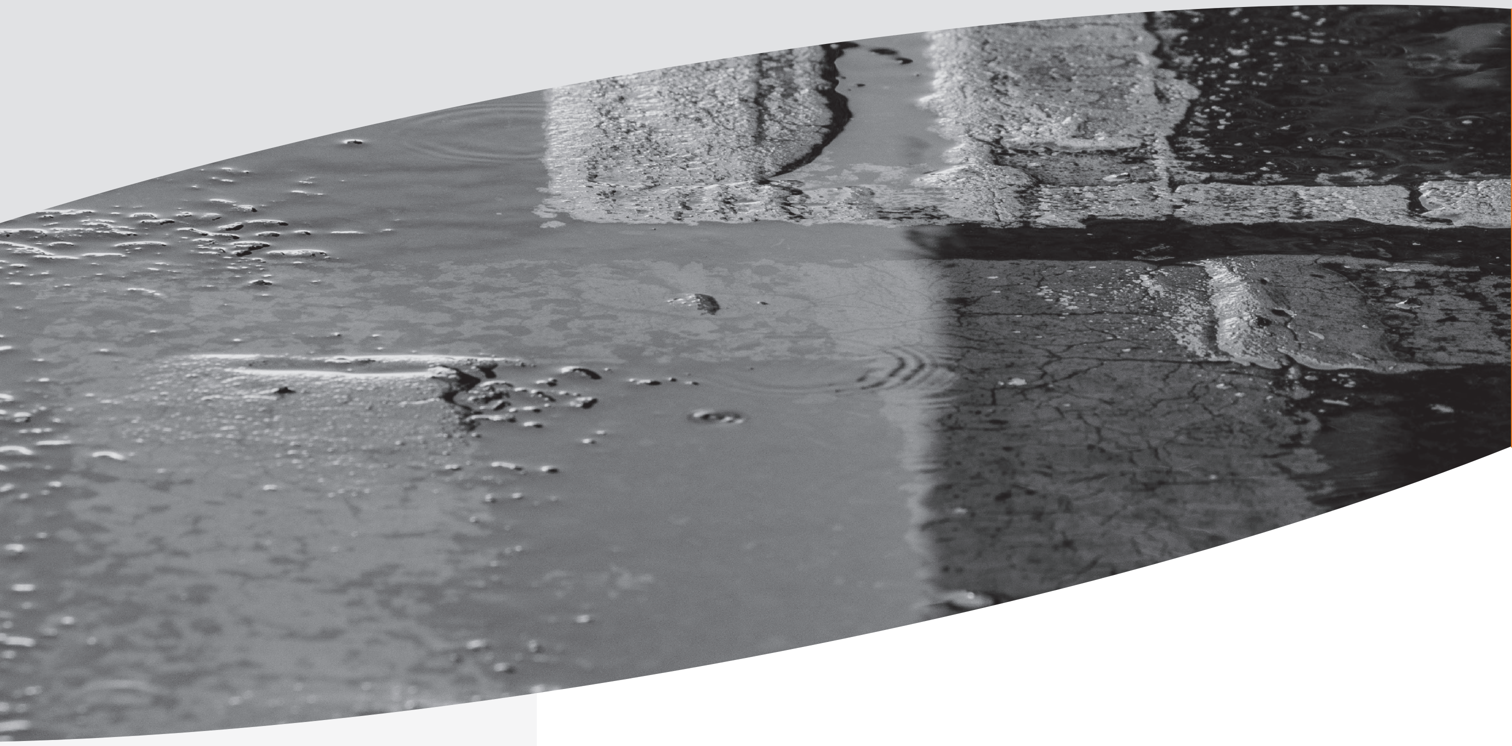

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Expert Analysis Chapters

Q&A Chapters

Q&A Chapters Continued

From the Publisher

Welcome to the 21st edition of *ICLG – Merger Control*, published by Global Legal Group.

This publication provides corporate counsel and international practitioners with comprehensive jurisdiction-by-jurisdiction guidance to merger control laws and regulations around the world, and is also available at www.iclg.com.

The publication begins with three expert analysis chapters written by Ashurst LLP, AlixPartners, and CMS that provide further insight into merger control developments.

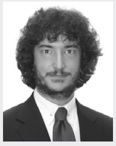
The question and answer chapters, which in this edition cover 33 jurisdictions, provide detailed answers to common questions raised by professionals dealing with merger control laws and regulations.

As always, this publication has been written by leading merger control lawyers and industry specialists, for whose invaluable contributions the editors and publishers are extremely grateful.

Global Legal Group would also like to extend special thanks to contributing editors Nigel Parr & Steven Vaz of Ashurst LLP for their leadership, support and expertise in bringing this project to fruition.

Jon Martin
Publisher
Global Legal Group

Turkey/Türkiye



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Öznur İnanılır

1 Relevant Authorities and Legislation

1.1 Who is/are the relevant merger authority(ies)? If relevant, please include details of: (i) independence from government; (ii) who the senior decision-makers are (e.g. Chair, Chief Executive, Chief Economists), how long they have been in position, and their professional background (lawyer, economist, academia, industry, professional services, politics, etc.); and (iii) any relevant key terms of appointment (e.g. duration of appointment) of those in leadership positions (such as Chair, Chief Executive, and Chief Economist).

The national competition authority for enforcing the Law on the Protection of Competition No. 4054 (“**Competition Law**”) in Turkiye is the Turkish Competition Authority (“**Authority**”), a legal entity with administrative and financial autonomy. The Authority consists of the:

- Competition Board, (“**Board**”) in its capacity as the competent decision-making body of the Authority. The Board is responsible for, among other things, reviewing and resolving notifications concerning mergers, acquisitions and joint ventures. The Board consists of seven members and is seated in Ankara.
- Presidency, which handles the administrative works of the Competition Authority.
- Main Service Units, which comprise the following:
  - five supervision and enforcement departments;
  - department of decisions;
  - economic analyses and research department;
  - information management department;
  - external relations, training and competition advocacy department;
  - strategy development, regulation and budget department; and
  - cartel on-the-spot inspections support division.

Each service unit has a sectoral job definition.

Terms of office for the Chairman of the Board, Deputy Chairman and Board members are six years. A member may be re-selected after the completion of his/her term of office.

1.2 What is the merger legislation?

The principal legislation on merger control is the Competition Law and Communiqué No. 2010/4 on Mergers and Acquisitions Requiring the Approval of the Board (“**Communiqué No. 2010/4**”). In particular, Article 7 of the Competition Law governs mergers and acquisitions, and authorises the Board to regulate, through communiqués, which mergers and acquisitions require notification to the Authority in order to become legally valid. In accordance, Communiqué No. 2010/4 is the primary instrument in assessing merger cases in Turkiye and sets forth the types of mergers and acquisitions that are subject to the Board’s review and approval.

The Communiqué No. 2010/4 provides turnover thresholds for concentrations calling for approval from the Board, and also provides a merger control regime for undertakings active in certain markets/sectors.

With a continued interest in the harmonisation of Turkish competition law with EU competition law, the Authority has published the following guidelines: (i) the Guideline on Cases Considered as Mergers and Acquisitions and the Concept of Control (“**Guideline on the Concept of Control**”); (ii) the Guideline on the Assessment of Horizontal Mergers and Acquisitions; (iii) the Guideline on the Assessment of Non-Horizontal Mergers and Acquisitions; (iv) the Guideline on Market Definition; (v) the Guideline on Undertakings Concerned, Turnover and Ancillary Restrictions in Mergers and Acquisitions (“**Guideline on Undertakings Concerned**”); and (vi) the Guideline on Remedies Acceptable in Mergers and Acquisitions (“**Remedy Guideline**”).

1.3 Is there any other relevant legislation for foreign mergers?

There is no legislation for foreign mergers in terms of competition law in Turkiye.

1.4 Is there any other relevant legislation for mergers in particular sectors?

The Banking Law No. 5411 (“**Banking Law**”) provides that the provisions of Articles 7, 10 and 11 of the Competition Law shall not be applicable on the condition that the sectorial share of the total assets of the banks subject to merger or acquisition does not exceed 20 per cent. The Board distinguishes between transactions involving foreign acquiring banks with no operations in Turkiye and those foreign acquiring banks already operating in Turkiye while applying the exception rule in the Banking Law. Therefore, while the Board applies the Competition Law to mergers and acquisitions where the foreign acquiring bank does not have any operations in Turkiye, it does not apply the Competition Law if the foreign acquiring bank already has operations in Turkiye under the exception rule in the Banking Law. The competition legislation provides no special regulation applicable to foreign investments. However, some special restrictions exist on foreign investments in other legislations, such as media.

1.5 Is there any other relevant legislation for mergers which might not be in the national interest?

There is no other relevant legislation in terms of competition law for mergers that might not be in the national interest other than the legislation regarding the Banking Law as explained under question 1.4 above.

2 Transactions Caught by Merger Control Legislation

2.1 Which types of transaction are caught – in particular, what constitutes a "merger" and how is the concept of "control" defined?

Communiqué No. 2010/4 defines the scope of the notifiable transactions in Article 5(1) as follows:

(a) a merger of two or more undertakings; or
(b) the acquisition of direct/indirect control over all or part of one or more undertakings by one or more undertakings or persons, who currently control at least one undertaking, through:
  - the purchase of assets or a part or all of its shares;
  - an agreement; or
  - other instruments.

Concentrations that result in a change of control on a lasting basis are subject to the Board's approval, provided they exceed the applicable thresholds. Communiqué No. 2010/4 and the Guideline on the Concept of Control provide a definition of "control", which is similar to the definition of this term in Article 3 of the European Council Regulation No. 139/2004 ("**EC Merger Regulation**"). Article 5(2) of Communiqué No. 2010/4 reads as follows:

> "*Control can be constituted by rights, agreements or any other means which, either separately or jointly, de facto or de jure, confer the possibility of exercising decisive influence on an undertaking. These rights or agreements are instruments which confer decisive influence; in particular, by ownership or right to use all or part of the assets of an undertaking, or by rights or agreements which confer decisive influence on the composition or decisions of the organs of an undertaking.*"

2.2 Can the acquisition of a minority shareholding or other form of influence amount to a "merger"?

Acquisition of a minority shareholding can amount to a merger, if and to the extent that it leads to a change in the control structure of the target entity. In other words, if minority interests acquired are granted certain veto rights that may influence the management of the company (e.g. privileged shares conferring management powers), then the nature of control could be deemed changed (from sole to joint control) and the transaction could be subject to filing. As specified under the Guideline on the Concept of Control, such veto rights must be related to strategic decisions on the business policy, and they must go beyond normal "minority rights", i.e. the veto rights normally accorded to minority shareholders to protect their financial interests.

2.3 Are joint ventures subject to merger control?

Turkish merger control rules applicable to joint ventures are akin to – if not the same as – the EU rules. If the turnover thresholds are triggered, the joint venture transaction would be notifiable provided the joint venture is a full-function joint venture. In order to qualify as a concentration subject to merger control, a joint venture must be of a full-function nature and satisfy two criteria: (i) the existence of joint control in the joint venture; and (ii) the joint venture being an independent economic entity established on a lasting basis.

2.4 What are the jurisdictional thresholds for application of merger control?

Under Article 7 of Communiqué No. 2010/4, the transaction would be notifiable in cases where one of the below turnover thresholds is triggered:

- the aggregate Turkish turnover of the transaction parties exceeds TL 750 million (approximately EUR 29.2 million or USD 31.6 million for consideration of 2023 turnovers) and the Turkish turnover of at least two of the transaction parties each exceed TL 250 million (approximately EUR 9.7 million or USD 10.5 million for consideration of 2023 turnovers); or
- (i) the Turkish turnover of the transferred assets or businesses in acquisitions exceeds TL 250 million (approximately EUR 9.7 million or USD 10.5 million for consideration of 2023 turnovers) and the worldwide turnover of at least one of the other parties to the transaction exceeds TL 3 billion (approximately EUR 117 million and USD 126.6 million for consideration of 2023 turnovers), or (ii) the Turkish turnover of any of the parties in mergers exceeding TL 250 million (approximately EUR 9.7 million or USD 10.5 million for consideration of 2023 turnovers) and the worldwide turnover of at least one of the other parties to the transaction exceeds TL 3 billion (approximately EUR 117 million and USD 126.6 million for consideration of 2023 turnovers).

As seen above, the tests provided under Article 7(b) include two separate tests; Article 7(b)(i) is applicable only in cases of acquisition transactions (as well as joint ventures), while Article 7(b)(ii) is applicable only in cases of merger transactions.

Furthermore, the Communiqué No. 2010/4 provides a threshold exemption for the undertakings active in certain markets/sectors. Pursuant to the Communiqué No. 2010/4 "the TL 250 million Turkish turnover thresholds" mentioned above are not sought for the acquired undertakings active in or assets related to the fields of digital platforms, software or gaming software, financial technologies, biotechnology, pharmacology, agricultural chemicals and health technologies ("**Target Company(ies)**") if they (i) operate in the Turkish geographical market, (ii) conduct research and development ("**R&D**") activities in the Turkish geographical market, or (iii) provide services to the users in the Turkish geographical market.

It is also noteworthy that the Communiqué No. 2010/4 does not seek a Turkish nexus in terms of the activities that render the threshold exemption. In other words, it would be sufficient for the Target Company to be active in the fields of digital platforms, software or gaming software, financial technologies, biotechnology, pharmacology, agricultural chemicals and health technologies anywhere in the world for the threshold exemption to become applicable, provided that the Target Company (i) generates revenue from customers located in Turkiye, (ii) conducts R&D activities in Turkiye, or (iii) provides services to the Turkish users in any fields other than abovementioned ones. Accordingly, the Communiqué No. 2010/4 does not require (i) generating revenue from customers located in Turkiye, (ii) conducting R&D activities in Turkiye, or (iii) providing services to the Turkish users concerning the fields listed above, for the exemption on the local turnover thresholds to become applicable.

To clarify the meaning and the scope of these sectors exempted from the use of local turnover thresholds, a non-exhaustive list of activities that correspond to the sectors referred to in the definition of the Communiqué No. 2010/4 is provided below. The below list reflects a mere effort to provide insight and guidance in identifying this scope, thus the list is not exhaustive:

(a) **Digital platforms**: Digital platforms are systems and interfaces that form a commercial network or market facilitating business-to-business ("**B2B**"), business-to-customer ("**B2C**") or even customer-to-customer ("**C2C**") transactions. Digital platforms include but are not limited to social media platforms, knowledge-sharing platforms, media-sharing platforms, service-oriented platforms, online marketplaces and digital content aggregators.

(b) **Software and gaming software**: Software relates to a set of instructions, data or programs used to operate computers and execute specific tasks, while gaming software concerns software customised for gaming. Software and gaming software include but are not limited to the activities below:
   - i. writing and publishing of software and gaming software (including publishing of computer games) (NACE Rev. 2: 58.2);
   - ii. wholesale, retail sale, distribution and marketing of software (both customised and non-customised) and gaming software (NACE Rev. 2: 46.51, 47.41);
   - iii. reproduction from master copies of software (NACE Rev. 2: 18.2);
   - iv. manufacture of electronic games with fixed (non-replaceable) software (NACE Rev. 2: 32.40);
   - v. translation or adaptation of software and gaming software (NACE Rev. 2: 58.29);
   - vi. computer programming activities (designing the structure and content of, and/or writing the computer code necessary to create and implement systems software (including updates and patches), software applications (including updates and patches), databases, web pages, customising of software (NACE Rev. 2: 62.01); and
   - vii. software installation services (NACE Rev. 2: 62.09).

(c) **Financial technologies**: Financial technologies refer to technology-enabled innovation in financial services. Undertakings that sit at the crossroads of financial services and technology fall into the scope of this definition. In brief, the term "financial technologies" is used to define software and other technology aiming to modify, enhance or automate financial services for businesses or consumers. Financial technologies include but are not limited to technologies and software developed for the following fields:
   - i. financial services activities (monetary intermediation, financial leasing, other credit granting) (NACE Rev. 2: 64.1, 64.9);
   - ii. insurance, reinsurance, pension funding (NACE Rev. 2: 65);
   - iii. activities auxiliary to financial services, insurance and pension funding (administration of financial markets (futures commodity contracts exchanges, securities exchanges, stock exchanges, stock or commodity options exchanges)), security and commodity contracts brokerage (dealing in financial markets on behalf of others (e.g. stock broking) and related activities, securities brokerage, commodity contracts brokerage, activities of *bureau de change*, etc.), risk and damage evaluation, activities of insurance agents and brokers, fund management activities, financial transaction processing and settlement, investment advisory activities, and activities of mortgage advisers and brokers (NACE Rev. 2: 66);
   - iv. accounting, bookkeeping and auditing activities, tax consultancy (recording of commercial transactions from businesses or others, preparation or auditing of financial accounts, examination of accounts and certification of their accuracy, preparation of personal and business income tax returns, advisory activities and representation on behalf of clients before tax authorities) (NACE Rev. 2: 69.2); and
   - v. digital lending, payments, blockchain and digital wealth management.

(d) **Biotechnology**: Biotechnology refers to technology that utilises biological systems, living organisms or parts of this to develop or create different products. The sector includes but is not limited to the activities below:
   - i. research and experimental development on biotechnology (NACE Rev. 2: 72.11):
     - DNA/RNA (genomics, pharmacogenomics, gene probes, genetic engineering, DNA/RNA sequencing/synthesis/amplification, gene expression profiling, and use of antisense technology);
     - proteins and other molecules (sequencing/synthesis/engineering of proteins and peptides (including large molecule hormones); improved delivery methods for large molecule drugs; and proteomics, protein isolation and purification, signalling, identification of cell receptors);
     - cell and tissue culture and engineering (cell/tissue culture, tissue engineering (including tissue scaffolds and biomedical engineering), cellular fusion, vaccine/immune stimulants, embryo manipulation);
     - process biotechnology techniques (fermentation using bioreactors, bioprocessing, bioleaching, biopulping, biobleaching, biodesulphurisation, bioremediation, biofiltration and phytoremediation);
     - gene and RNA vectors: gene therapy; and viral vectors;
     - bioinformatics (construction of databases on genomes, protein sequences, modelling complex biological processes, including systems biology); and
     - nanobiotechnology (applies the tools and processes of nano/microfabrication to build devices for studying biosystems and applications in drug delivery, diagnostics, etc.); and
   - ii. manufacture of biotech pharmaceuticals such as plasma derivatives (NACE Rev. 2: 21.20).

(e) **Pharmacology**: Pharmacology, a biomedical science, deals with the research, discovery and characterisation of chemicals that have biological effects and the elucidation of cellular and organismal function in relation to these chemicals. In other words, pharmacology refers to the science of how drugs act on biological systems and how the body responds to the drug. The study of pharmacology encompasses the sources, chemical properties, biological effects and therapeutic uses of drugs. Pharmacology includes but is not limited to the biomedical studies and R&D activities conducted in the areas below:

i. Pharmacodynamics (relationship of drug concentration and the biologic effect (physiological or biochemical)).
ii. Pharmacokinetics (interrelationship of the absorption, distribution, binding, biotransformation, and excretion of a drug and its concentration at its locus of action).
iii. Clinical pharmacology and therapeutics (understanding what a drug is doing to the body, what happens to a drug in the body, and how drugs work in terms of treating a particular disease).
iv. Pharmacotherapy (treatment of a disorder or disease with medication).
v. Neuropharmacology (understanding how drugs affect cellular function in the nervous system).
vi. Psychopharmacology (use of medications in treating mental disorders).
vii. Cardiovascular pharmacology (understanding how drugs influence the heart and vascular system).
viii. Molecular pharmacology (investigates the molecular mode of action of drugs, among others using genetic and molecular biology methods).
ix. Radiopharmacology (study and preparation of radioactive pharmaceuticals).
x. Manufacture and R&D of pharmaceuticals (antisera and other blood fractions, vaccines, diverse medicaments, including homeopathic preparations), pharmaceutical preparations and medicinal chemicals (manufacture of medicinal active substances to be used for their pharmacological properties in the manufacture of medicaments: antibiotics; basic vitamins; and salicylic and O-acetylsalicylic acids, etc.); wholesale, retail sale, distribution and marketing of pharmaceuticals, pharmaceutical preparations and medicinal chemicals; and growing of drug and narcotic crops (NACE Rev. 2: 21.1, 21.2).

(f) **Agricultural chemicals**: Agricultural chemicals refer to chemicals used in agriculture to control pests and disease or control and promote growth, such as pesticides, herbicides, fungicides, insecticides, and fertilisers. The sector includes but is not limited to the activities below:
i. mining of chemical and fertiliser minerals (NACE Rev. 2: 08.91);
ii. support activities for other mining and quarrying (where it relates to agricultural chemicals and fertilisers) (NACE Rev. 2: 09.90);
iii. manufacture of fertilisers (straight or complex nitrogenous, phosphatic or potassic fertilisers; and urea, crude natural phosphates and crude natural potassium salts) and nitrogen compounds (nitric and sulphonitric acids, ammonia, ammonium chloride, ammonium carbonate, nitrites and nitrates of potassium) (NACE Rev. 2: 20.15);
iv. manufacture of organic and inorganic basic chemicals (where it relates to agricultural chemicals and fertilisers) (NACE Rev. 2: 20.13, 20.14);
v. manufacture of pesticides and other agrochemical products (manufacture of insecticides, rodenticides, fungicides, herbicides, acaricides, molluscicides, biocides, manufacture of anti-sprouting products, plant growth regulators, manufacture of disinfectants (for agricultural and other use)) (NACE Rev. 2: 20.2); and
vi. wholesale, retail sale, distribution and marketing of fertilisers and agrochemical products (NACE Rev. 2: 46.75).

(g) **Health technologies**: Health technologies are the application of organised knowledge and skills in the form of medicines, medical devices, vaccines, procedures and systems developed to solve a health problem and improve quality of life. They refer to any technology, including medical devices, IT systems, algorithms, artificial intelligence ("AI"), cloud and blockchain, designed to support healthcare organisations and patients. Health technologies include but are not limited to technologies and software developed or being developed for the following fields:
i. human health activities (hospital activities, medical (medical consultation and treatment) and dental practice activities (dentistry, endodontic and paediatric dentistry; oral pathology, orthodontic activities)) (NACE Rev. 2: 86);
ii. residential healthcare activities (residential nursing care activities, residential care activities for intellectual disability, mental health and substance abuse, and residential care activities for the elderly and disabled) (NACE Rev. 2: 87); and
iii. manufacture of medical and dental instruments (e.g. operating tables, examination tables, hospital beds with mechanical fittings, dentists' chairs and surgical appliances) (NACE Rev. 2: 32.5).

If the Target Company's activities fall into the above markets/sectors, the thresholds that would be applicable would be: "The aggregate Turkish turnover of the transaction parties exceeding TL 750 million (approx. EUR 29.2 million or USD 31.6 million)" or "the worldwide turnover of at least one of the other parties to the transaction exceeding TL 3 billion (approx. EUR 117 million or USD 126.6 million)". Accordingly, when an undertaking that falls within the definition and criteria above is being acquired, the transaction would be notifiable if the aggregate Turkish turnover of the Target Company and the acquirer exceeds TL 750 million or the worldwide turnover of the acquirer exceeds TL 3 billion.

Among the numerous decisions where the relevant exemption was applied, examples include:

- *WorxInvest NV/Vlaamse Participatiemaatschappij NV* (Decision 24-09/154-64 of 21 February 2024) which concerned a technology undertaking;
- *Kahoot! ASA/Goldman Sachs & Co. LLC* (Decision 23-43/817-289 of 14 September 2023) which concerned a software undertaking;
- *LeanIX GmbH/SAP SE* (Decision 23-50/966-350 of 26 October 2023) which concerned a software undertaking;
- *BAM Digital Realty/Brookfield Corporation and Digital Realty Trust* (Decision 23-47/885-312 of 10 October 2023) which concerned a technology undertaking;
- *Blutv İletişim ve Dijital Yayın Hizmetleri AŞ/Discovery Medya Hizmetleri Limited Şirketi* (Decision 23-58/1138-407 of 14 December 2023) which concerned a technology undertaking;
- *Twitter Inc./Elon Musk* (Decision 23-12/197- 66 of 2 March 2023) which concerned a digital platform undertaking;
- *Astellas Pharma Inc./Novartis AG* (Decision 23-10/150-45 of 23 February 2023) which concerned a pharmacology undertaking;
- *Photomath Inc./Google LLC* (Decision 23-19/354-121, 28 April 2023) which concerned a software undertaking;
- *Scopely, Inc./Saudi Electronic Gaming Holding Company* (Decision 23-26/489- 167, 7 June 2023) which concerned a gaming software undertaking;
- *Syneos Health Inc./Veritas Capital Fund Management, Elliott Investment Management L.P., Patient Square Capital*

Holdings LLC (Decision 23-37/707-244, 10 August 2023) which concerned a health technology undertaking;

- *SCADAfence LTD./Honeywell International Sarl* (Decision 23-39/725-248, 17 August 2023) which concerned a software undertaking;
- *Co-One OÜ/Maxis Venture Capital* (Decision 23-39/726-249, 17 August 2023) which concerned a software undertaking;
- *DG INVEST B.V./DHI INVESTMENT B.V.* (Decision 23-41/800-284, 07 September 2023) which concerned a digital platform undertaking;
- *Re-Pie/Hızlıpara* (Decision 22-54/842-347 of 8 December 2022) which concerned a financial technology undertaking;
- *Playtika/Ace Academy* (Decision 22-54/823-336 of 8 December 2022) which concerned a gaming software undertaking;
- *AmerisourceBergen/Pharmalex* (Decision 22-52/775-319 of 23 November 2022) which concerned a pharmacology undertaking;
- *Invent/European Bank* (Decision 22-51/744-308 of 10 November 2022) which concerned a software undertaking;
- *Open Text/Micro Focus* (Decision 22-51/745-309 of 10 November 2022) which concerned a software undertaking;
- *Softline/Makronet* (Decision 22-50/733-305 of 3 November 2022), which concerned a software undertaking;
- *Vepara/Hedef* (Decision 22-53/816-335 of 1 December 2022) which concerned a financial technology undertaking;
- *Berkshire Hathaway/Alleghany* (Decision 22-42/625-261 of 15 September 2022) which concerned a software undertaking;
- *Castik Capital S.à r.l./Klaravik* (Decision 22-41/582-242 of 8 September 2022) which concerned a digital platform undertaking;
- *Clayton/TPG/Covetrus* (Decision 22-32/512-209 of 7 July 2022), which concerned a pharmacology undertaking;
- *Affidea/GBL* (Decision 22-27/431-176 of 16 June 2022), which concerned a biotechnology udertaking;
- *Google/Mandiant* (Decision 22-26/425-174 of 9 June 2022) which concerned a software undertaking;
- *Airties/Providence* (Decision 22-25/403-167 of 2 June 2022), which concerned a programming undertaking;
- *Astorg/Corden* (Decision 22-25/398-164 of 2 June 2022), which concerned a pharmacology undertaking;
- *IFGL/Cinven* (Decision 22-23/372-157 of 18 May 2022), which concerned an undertaking active in the digital platform markets;
- *Biocon Viatris* (Decision 22-23/380-159 of 18 May 2022), which concerned a pharmacology/molecular medicine undertaking;
- *Citrix/Tibco* (Decision 22-21/344-149 of 12 May 2022), which concerned a software undertaking; and
- *Impala Bidco/HG Capital/EQT Fund/TA* (Decision 22-21/354-152 of 12 May 2022), which concerned technology undertakings.

For the sake of completeness, the Authority has introduced Communiqué No. 2017/2 Amending Communiqué 2010/4. One of the amendments introduced to Communiqué No. 2010/4 is that Article 1 of Communiqué No. 2017/2 abolished Article 7(2) of Communiqué No. 2010/4, propounding that "[t]he thresholds [...] are re-determined by the Board biannually". Due to this amendment, the Board no longer has the duty to re-establish turnover thresholds for concentrations every two years. To that end, there is no specific timeline for the review of the relevant turnover thresholds set forth by Article 7(1) of Communiqué No. 2010/4.

2.5 Does merger control apply in the absence of a substantive overlap?

Yes, Article 7 of Communiqué No. 2010/4 provides turnover-based thresholds and does not seek the existence of an "affected market" in assessing whether a transaction triggers a notification requirement.

2.6 In what circumstances is it likely that transactions between parties outside your jurisdiction ("foreign-to-foreign" transactions) would be caught by your merger control legislation?

If the turnover thresholds are met, foreign-to-foreign transactions would trigger a notification requirement, provided the joint venture is a full-function joint venture.

Regardless of the parties' physical presence in Turkiye, sales in Turkiye may trigger the notification requirement to the extent that the turnover thresholds are met. In terms of acquisition transactions, even if the undertakings concerned have no local subsidiaries, branches or sales outlets in Turkiye, the transaction could still be subject to Turkish competition legislation if the goods or services of the participating undertakings are sold in Turkiye. In terms of joint venture transactions, the transaction could be subject to mandatory merger control notification in Turkiye, regardless of whether the joint venture has a Turkish nexus or generates any Turkish turnover. In other words, whether the joint venture has a Turkish nexus or not is not relevant for the notifiability analysis under the Turkish merger control regime. Provided the joint venture is a full-function joint venture and the jurisdictional thresholds provided under Article 7 of Communiqué No. 2010/4 are triggered, the relevant transaction would be subject to mandatory merger control in Turkiye. The Board's precedents illustrate this approach as well (*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/Saudi Arabian Oil Company/Public Investment Fund* (23-40/782-274; 31.08.2023), *Tianjin/Yuasa* (23-48/925-328, 12.10.2023), *HgCapital/Welsh Carson Anderson&Stowe/Warburg/Norstella/Informa* (22-41/558-222, 08.09.2022), *Tricon/Chemieuro-JV* (22-15/248-107, 31.03.2022), *Baker Hughes/Dussur-Baker Petrolite* (22-28/451-182, 23.06.2022), *Itochu/Isuzu-ILS/UMAX/UDFS* (22-27/435-178, 16.06.2022), *Itochu/Hitachi* (22-55/857-355, 15.12.2022), *Vodafone/Oak* (23-09/139-41, 16.02.2023), *Stellantis/BNP Paribas* (22-32/497-199, 07.07.2022) *Hg/Montagu-Sigma* (22-18/298-132, 21.04.2022), *Blackstone/CPP Investments-Advarra* (22-29/485-194, 30.06.202), *South32/KGHM-Sierra* (21-63/888-435, 23.12.2021), *Phillips 66/H2 Energy Europe* (22-20/313-137, 28.04.2022), *OCP/Koch-JFC* (22-18/297-131, 21.04.2022), *Daimler/Traton/Volvo* (22-20/320-142, 28.04.2022), *Porsche/Lufthansa* (22-12/177-72, 10.03.2022), *PSA/TIL-PNIT* (22-08/115-45, 10.02.2022), *LGChem-Toray/Toray Hungary* (22-15/253-111, 31.03.2022), *OCIM/OCIKUMHO* (22-15/249-108, 31.03.2022), *CVC-Hartenberg/FutureLife* (22-12/179-74, 10.03.2022), *Blackstone-Warburg/Nexus* (22-09/123-48, 17.02.2022), *TPG-Apax/Fractal* (22-09/131-51, 17.02.2022), *KKR-GIM/CyrusOne* (22-10/139-56, 24.02.2022), *Ford-ADT/SNTNL* (22-12/196-81, 10.03.2022), *Goldman-ICBC/Goldman Wealth* (22-07/92-36, 03.02.2022), *Bain Capital-Hellman/Athenahealth* (21-67/904-438; 30.12.2021), *EdgeConneX/Chayora* (21-59/839-411, 08.12.2021), *CPPI/BZLP* (21-41/602-295, 02.09.2021), *EQT-H&F/zooplus* (21-59/848-418, 08.12.2021), *Comcast-Viacom* (21-54/750-374, 04.11.2021), *LIXIL-Schüco/Schueco Japan* (21-31/403-204, 17.06.2021), *GTRC-Blackstone/Campaign* (21-39/569-274, 19.08.2021), *LG/Magma* (21-25/317-147, 04.05.2021), *Igenomix-Universal Clinics/Novalbufera* (21-30/383-192, 10.06.2021), *Linde/Sahara International* (21-32/416-208, 24.06.2021), CDC/EDF (21-29/363-180, 03.06.2021), *Ube-Mitsubishi* (21-11/157-66, 04.03.2021), *Engie/FCA* (21-15/187-79, 18.03.2021), *Housing Development/Warburg Pincus* (21-13/167-72, 11.03.2021), *Astorg/Nordic* (21-08/109-45, 18.02.2021), *Partners Group/Warburg Pincus* (21-05/60-27, 28.01.2021), *TransnetBVV GmbH/MHP* (21-04/43-18, 21.01.2021), *Warner Bros/Universal* (20-25/324-152, 21.05.2020), *BP/RIL-RBPML* (20-21/284-138, 30.04.2020), *Warburg Pincus/Archimed-Polyplus* (20-19/252-121, 09.04.2020), *SGIS/JFE-Baosteel* (20-14/180-92, 12.03.2020), *Elliott/Apollo-EP Energy* (20-13/171-90, 05.03.2020), *Toyota/Mitsui-KINTO* (20-13/166-85, 05.03.2020), *Generali/Apleona-Sansa* (20-12/140-77, 27.02.2020), *Daimler/Swiss* (20-10/105-61, 13.02.2020), *Sumitomo/Toyota/Lewis-MMP* (20-10/101-59, 13.02.2020), *Generali/Union-Zaragoza Properties* (20-08/73-41, 06.02.2020), *Alpla Holding/PTT Global* (20-04/37-19, 16.01.2020), *HSI/Hilton Sao Paulo Morumbi* (20-04/33-16, 16.01.2020), *Mitsubishi Corporation/Wallenius Wilhelmsen* (20-04/35-18, 16.01.2020), *FSI/Snam-OLT Offshore* (20-03/18-8, 09.01.2020), *AMG/Shell* (20-03/20-10, 09.01.2020), *Engie/EDF/CDC/La Poste* (19-45/747-321, 19.12.2019), *Bamesa/Steel Center* (19-44/739-316, 12.12.2019), *Astorg/eResearch Technology* (19-44/730-310, 12.12.2019), *CDC/Total* (19-42/700-299, 29.11.2019), *BP/Bunge* (19-35/526-216, 11.10.2019), *Faurecia/Michelin-SymbioFCell* (19-33/491-211, 26.09.2019), *Leoni/Hengtong* (19-08/93-38, 21.02.2019), *Daimler/Volkswagen-MT Holding* (19-06/61-25, 07.02.2019), *DENSO/Aisin Seiki* (19-04/32-13, 17.01.2019), *Adient/Boeing* (18-21/364-180, 28.06.2018), *GE/Rosneft* (18-14/259-124, 08.05.2018), *IBM/Maersk* (18-08/138-68, 15.03.2018), *Daimler/Volkswagen-AutoGravity* (17-28/463-202; 07.09.2017), *NIPIgas/Technip/Linde/JV* (17-23/366-159, 19.07.2017)).

2.7 Please describe any mechanisms whereby the operation of the jurisdictional thresholds may be overridden by other provisions.

Operation of the jurisdictional thresholds may be overridden in case the threshold exemption for the undertakings active in certain markets/sectors is applicable. Pursuant to the Communiqué No. 2010/4, "the TL 250 million Turkish turnover thresholds" under Article 7 of Communiqué No. 2010/4 are not sought for the acquired undertakings active in or assets related to the fields of digital platforms, software or gaming software, financial technologies, biotechnology, pharmacology, agricultural chemicals and health technologies, if they (i) operate in the Turkish geographical market, (ii) conduct R&D activities in the Turkish geographical market, or (iii) provide services to the users in the Turkish geographical market.

If the Target Company's activities fall into the above markets/sectors, the thresholds that would be applicable would be:

> "*The aggregate Turkish turnover of the transaction parties exceeding TL 750 million (approximately EUR 29.2 million or USD 31.6 million)*" or "*the worldwide turnover of at least one of the other parties to the transaction exceeds TL 3 billion (for 2023 approximately EUR 117 million or USD 126.6 million)*".

Based on this, when an undertaking that falls within the definition and criteria above is being acquired, the transaction would be notifiable in case the aggregate Turkish turnover of the Target Company and the acquirer exceeds TL 750 million or the worldwide turnover of the acquirer exceeds TL 3 billion.

However, due to the unclear wording of the Communiqué No. 2010/4, we cannot altogether exclude the possibility of the application of the TL 3 billion threshold both for the Target Company's global turnover and the acquirer's global turnover when the TL 250 million threshold is excluded.

2.8 Where a merger takes place in stages, what principles are applied in order to identify whether the various stages constitute a single transaction or a series of transactions?

Article 5(4) of Communiqué No. 2010/4 provides that closely related transactions that are tied to conditions or transactions realised over a short period of time by way of expedited exchange of securities are treated as a single transaction.

In terms of turnover calculation, together with the amendment through Article 2 of Communiqué No. 2017/2, Article 8(5) of Communiqué No. 2010/4 provides that the Board would be in a position to evaluate the transactions realised by the same undertaking concerned in the same relevant product market within three years as a single transaction, as well as two transactions carried out between the same persons or parties within a three-year period.

Accordingly, pursuant to the Guideline on the Concept of Control, two or more transactions constitute a single concentration provided that the transactions are interdependent (i.e. one transaction would not have been carried out without the other) and that the control is acquired by the same persons or undertaking(s). The conditionality of the transactions could be proven if the transactions are linked *de jure* (i.e. the agreements themselves are linked by mutual conditionality). *De facto* conditionality may also suffice if it can be satisfactorily demonstrated.

Lastly, Article 3 of Communiqué No. 2017/2 introduced a new paragraph to be included in Article 10 of Communiqué No. 2010/4. This provision by Article 3 of Communiqué No. 2017/2 is similar to Article 7(2) of the EC Merger Regulation. At any rate, while there was no similar specific statutory rule in Turkiye on this matter, the case law of the Board has shed light.

3 Notification and its Impact on the Transaction Timetable

3.1 Where the jurisdictional thresholds are met, is notification compulsory and is there a deadline for notification?

Once the thresholds are exceeded, there are no exceptions for filing a notification. There is no *de minimis* exception in terms of Turkish merger control rules. There is no specific deadline for filing; however, the filing should be made before the closing of the transaction. Under Article 10(8) of Communiqué No. 2010/4, a transaction is deemed "realised" on the date on which the change of control occurs.

3.2 Please describe any exceptions where, even though the jurisdictional thresholds are met, clearance is not required.

Article 6 of Communiqué No. 2010/4 provides that cases that are not considered mergers or acquisitions include: (i) intra-group transactions and other transactions that do not lead to a change in control; (ii) operations of undertakings whose ordinary operations involve transactions with securities temporarily holding on to securities purchased for resale purposes, provided that the voting rights from those securities are not used to affect the competitive policies of the undertaking; (iii) acquisition of control by a public institution or organisation by operation of law; and (iv) mergers or acquisitions occurring as a result of inheritance.

3.3 Is the merger authority able to investigate transactions where the jurisdictional thresholds are not met? When is this more likely to occur and what are the implications for the transaction?

Generally, in order for a transaction to be investigated under legislation of Turkish competition law, the jurisdictional thresholds must be satisfied.

3.4 Where a merger technically requires notification and clearance, what are the risks of not filing? Are there any formal sanctions?

If the parties to a notifiable transaction violate the suspension requirement (i.e. (i) close a notifiable transaction without the approval of the Board, or (ii) do not notify the notifiable transaction at all) and such violation of the suspension requirement is detected, the Authority is obliged to enforce the sanctions and legal consequences set forth under the Turkish merger control regime. In the event that the parties to a merger or an acquisition that require the approval of the Board realise the transaction without the approval of the Board, a turnover-based monetary fine of 0.1 per cent of the turnover generated in the financial year preceding the date of the fining decision will be imposed on the incumbent firms, regardless of the outcome of the Board's review of the transaction. The minimum amount of this fine is set at TL 167,473 for 2024 (approximately EUR 5,000 or USD 5,500 at the time of writing), rather than the former minimum amount of TL 105,688 (approximately EUR 2,813 or USD 3,103 at the time of writing), as amended by Communiqué No. 2023/1 on the Increase of the Lower Threshold for Administrative Fines, as specified in Paragraph 1, Article 16 of the Competition Law, which is valid until 31 December 2024 and is revised annually.

Invalidity of the transaction

A notifiable merger or acquisition that is not notified to (and approved by) the Board would be deemed legally invalid with all of its legal consequences until it is approved by the Competition Board.

Termination of infringement and interim measures

Pursuant to Article 9(1) of the Competition Law, should the Board find any infringement of Article 7, it shall order the parties concerned, by a resolution, to take the necessary actions such as the transfer of certain activities, shareholdings or assets to restore the same status as before the completion of the transaction, and thereby restore the pre-transaction level of competition. Similarly, the Competition Law authorises the Board to take interim measures until the final resolution on the matter in cases where there is a possibility for serious and irreparable damages to occur.

Termination of the transaction and turnover-based monetary fines

If at the end of its review of a notifiable transaction that was not notified, the Board decides that the transaction falls within the prohibition of Article 7, the undertakings could be subject to fines of up to 10 per cent of their turnover generated in the financial year preceding the date of the fining decision. Employees and managers (of the undertakings concerned) that had a determining effect on the creation of the violation may also be fined up to 5 per cent of the fine imposed on the undertakings as a result of implementing a problematic transaction without the Board's approval.

In addition to the monetary sanction, the Board is authorised to take all necessary measures to terminate the transaction, remove all *de facto* legal consequences of every action that has been taken unlawfully, return all shares and assets (if possible) to the places or persons that owned these shares or assets before the transaction or, if such measure is not possible, assign them to third parties; and, meanwhile, to forbid participation in control of these undertakings until this assignment takes place and to take all other necessary measures. It should also be noted that if the parties do not comply with the measures the Board has taken, as per Article 17 of the Law No. 4054, the Board may impose a daily administrative fine of 0.05 per cent of the turnover generated in the financial year preceding the date of the fining decision (or the turnover generated in the financial year nearest to the date of the fining decision) for each day of the violation until the Parties comply with the Board's decision.

3.5 Is it possible to carve out local completion of a merger to avoid delaying global completion?

There is no normative regulation permitting or prohibiting carve-out arrangements. Carve-out arrangements have been rejected by the Board so far, who have argued that a closing is sufficient for the suspension violation fine to be imposed and that a further analysis of whether a change in control actually took effect in Turkiye is unwarranted. The wording of the Board's reasoned decisions does not analyse the merits of the carve-out arrangements and takes the position that the "carve-out" concept is unconvincing.

Therefore, such carve-out methods would not eliminate the filing requirement, and they cannot authoritatively be advised as safe for early closing mechanisms recognised by the Board.

3.6 At what stage in the transaction timetable can the notification be filed?

Competition Law provides no specific deadline for filing, but it is important that the transaction is not closed before the approval of the Turkish Competition Board (the Board) is granted.

As for privatisation tenders, according to the Communiqué on the Procedures and Principles to be Pursued in Pre-Notifications and Authorisation Applications to be Filed with the Authority in Order for Acquisitions Via Privatisation to Become Legally Valid, amended by the Communiqué on the Amendment of the Communiqué on the Procedures and Principles to be Pursued in Pre-Notifications and Authorisation Applications to be filed with the Competition Authority in order for Acquisitions via Privatisation to Become Legally Valid ("**Communiqué No. 2013/2**"), it is mandatory to file a pre-notification before the public announcement of tender and receive the opinion of the Board in cases where the turnover of the undertaking or the asset or service production unit to be privatised exceeds TL 250 million (approximately EUR 9.7 million or USD 10.5 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. Communiqué No. 2013/2 promulgates that, for privatisation transactions, which require pre-notification to the Authority, obtaining approval from the Board is also mandatory for them to become legally valid. The application should be filed by all winning bidders after the tender, but before the Privatisation Administration's decision on the final acquisition.

In cases of a public bid, filing can be performed at a stage where the documentation at hand adequately proves the irreversible intention to finalise the contemplated transaction.

3.7 What is the timeframe for scrutiny of the merger by the merger authority? What are the main stages in the regulatory process? Can the timeframe be suspended by the authority?

The notification is deemed filed when received in complete form by the Authority. If the information requested in the notification form is incorrect or incomplete, the notification is deemed filed on the date on which such information is completed or corrected.

The Board, upon its preliminary review (i.e. Phase I), will decide either to approve or to investigate the transaction further (i.e. Phase II).

The Board notifies the parties of the outcome within 30 days following a complete filing. There is an implied approval mechanism where a tacit approval is assumed if the Board does not react within 30 calendar days upon a complete filing.

The Authority can send written information requests to the parties, any other party relating to the transaction or third parties such as competitors, customers or suppliers.

Any written request by the Authority for missing information will cut the review period and restart the 30-calendar-day period from the first day as of the date on which the responses are submitted.

If a notification leads to an investigation (Phase II), it transforms into a fully-fledged investigation. The investigation (Phase II) takes approximately six months and, if deemed necessary, it may be extended only once for an additional period of up to six months.

3.8 Is there any prohibition on completing the transaction before clearance is received or any compulsory waiting period has ended? What are the risks of completing before clearance is received? Have penalties been imposed in practice?

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 Board), which was set out under Article 11 of the Competition Law and Article 10(5) of Communique No. 2010/4. Under Article 10(8) of Communique No. 2010/4, a transaction is deemed "realised" (i.e. closed) on the date when the change in control occurs.

If the parties to a notifiable transaction violate the suspension requirement (i.e. (i) close a notifiable transaction without the approval of the Board, or (ii) do not notify the notifiable transaction at all) and such violation of the suspension requirement is detected, the Authority is obliged to enforce the sanctions and legal consequences set forth under the Turkish merger control regime. In other words, the relevant legislation does not give the Authority any discretion other than following the procedural steps specified within the legislation. To that end, as also evident from its decisional practice, the Board imposed an administrative monetary fine in numerous cases so far for either (i) closing the transaction prior to the Board's approval, or (ii) not notifying the transaction at all. As such, the imposition of a fine for violating the suspension requirement is a usual occurrence in the Turkish merger control regime. There are a number of examples in the Board's decisional practice where fines were levied on undertakings for violations of the suspension requirement (e.g. *Twitter Inc./Elon Musk* (02.03.2023, 23-12/197-66), TAIF/SIBUR (21-55/776-383, 11.11.2021), *BMW/Daimler/Ford/Porsche/Ionity* (20-36/483-211, 28.07.2020), *Brookfield/JCI* (20-21/278-132, 30.04.2020), *A-Tex/Labelon* (16-42/693-311, 06.12.2016), *Ersoy/Sesli* (14-22/422-186, 25.06.2014), *Electro World* (13-50/717-304, 05.09.2013), *Tekno İnşaat* (12-08/224-55, 23.02.2012), *Zhejiang/Kiri* (11-33/723-226, 02.06.2011), *Ajans Press/Inter Press* (10-66/1402-523, 21.10.2010), *Mesa Mesken/TOBB* (10-56/1088-408, 26.08.2010), *CVRD Canada Inc.* (10-49/949-332, 08.07.2010), *Flir Systems Holding/Raymarine* (10-44/762-246, 17.06.2010), *Batıçim/Borares* (10-38/641-217, 27.05.2010), *TKS/Sarten* (10-31/471-175, 15.04.2010), *Kansai Paint Co. Ltd./Akzo Nobel Coatings* (09-34/791-194, 05.08.2009), *Kiler/Yimpaş* (09-33/728-168, 15.07.2009), *Verifone/Lipman* (09-14/300-73, 13.04.2009), *Fina/Turkon* (09-02/19-12, 14.01.2009), *Çallı/Turyağ* (08-63/1048-407, 12.11.2008), *Eastpharma Sarl/Deva* (07-34/355-133, 24.04.2007), *Harry's/Fresh Cake/BNP* (07-61/722-253, 25.07.2007), *Doğuş Otomotiv/Katalonya* (07-66/813-308, 22.08.2007), *Total S.A./CEPSA* (06-92/1186-355, 20.12.2006), *Mauna/Tyco International* (06-46/586-159, 29.06.2006), *Konfrut/Dinter* (05-84/1149-329, 15.12.2005), *Doğan Yayın Holding/Turkish Daily News* (00-49/519-284, 12.12.2000)).

3.9 Is a transaction which is completed before clearance is received deemed to be invalid? If so, what are the practical consequences? Can validity be restored by a subsequent clearance decision?

If there is truly a risk that the relevant notifiable transaction might be viewed as problematic under the significant impediment of effective competition ("**SIEC**") test applicable in Turkiye, Article 11(b) of the Competition Law entitles the Authority to *ex officio* launch an investigation in case the transaction is closed before clearance and order structural as well as behavioural remedies to restore the situation as before the closing (*restitutio in integrum*), and impose a turnover-based fine (of up to 10 per cent of the incumbent parties' annual Turkish turnover) on the incumbent parties. Each of the executive members of the incumbent parties who are determined to have played a significant role in the infringement may also receive monetary fines up to five per cent of the fine imposed on the incumbent parties as a result of implementing a problematic transaction without obtaining approval from the Board.

Also, as part of the legal consequences, regardless of whether the transaction would be approved or not at a later date, a notifiable concentration is "invalid with all its legal consequences, unless and until it is approved by the Board" under Turkish law. The implementation of a notifiable transaction in Turkiye is suspended until clearance by the Board is obtained. Therefore, a notifiable merger or an acquisition should not be legally valid until the approval of the Board, and such notifiable transaction cannot be closed in Turkiye before the clearance of the Board. The parties might be unable to enforce their rights under the transaction agreement(s) before Turkish courts prior to the clearance of the transaction by the Board. In any case, the parties cannot build on this transaction in Turkiye in the future either. If they were to engage in any official business with the Turkish Administration, this might present a problem, and in any case if they were to have a transaction in the future that must be filed with the Authority, the Authority would halt the entire notification at that time, request a notification on the earlier transaction, review the notification, provide the administrative monetary fine and the decision there, and only then engage in working on the actually notified transaction, which means that the notified transaction's result could be extended to beyond 100 days in review time in total.

3.10 Where notification is required, is there a prescribed format?

Communiqué No. 2010/4 provides a complex notification form, which is similar to the Form CO. The notification form shall be submitted to the Board. In parallel with the notion that only transactions with a relevant nexus to the Turkish jurisdiction will be notified, a wide range of information is requested by the Board, including data with respect to supply and demand structure, imports, potential competition, expected efficiencies, etc. Additionally, by way of the amendments introduced by the Amendment Communiqué, the new sample notification form seeks information on the relevant product and geographical markets that the parties (i.e. ultimate parent entities of the parties to the transaction) to the transaction as well as the undertakings concerned (i.e. direct parties to the transaction) operate in, in global terms. Translations of some of the transaction documents, annual reports including balance sheets of the parties, and, if available, market research reports for the relevant market, are also required. Bearing in mind that each subsequent request by the Board for incorrect or incomplete information will prolong the waiting period, detailed and justified answers and information to be provided in the notification form is to the advantage of the parties.

3.11 Is there a short form or accelerated procedure for any types of mergers? Are there any informal ways in which the clearance timetable can be speeded up?

There are no informal ways to speed up the procedure. There is a short-form notification (without a fast-track procedure) if: (i) one of the transaction parties will be acquiring the sole control of an undertaking over which it has joint control; or (ii) there is no affected market in Turkiye. The sample notification form requires disclosure of information on affected markets, overall market size of the affected markets, the parties' sales figures (in volume and value) in the affected markets both in Turkiye and worldwide for the three years preceding the date of the notification, market share information regarding the competitors of the parties in the affected markets in Turkiye and worldwide having more than five per cent market shares in the affected markets for the three years preceding the date of the notification, import conditions, supply structure, demand structure, market entry conditions, potential competition, and efficiency gains, only if a given transaction would give rise to affected market(s) in Turkiye.

3.12 Who is responsible for making the notification?

Under the Turkish merger control regime, a filing can be made either jointly or by either of the parties. Consequently, the parties can choose to submit the filing jointly or by one of the parties. The filing party should notify the other party of the filing.

3.13 Are there any fees in relation to merger control?

There are no filing fees under the Turkish merger control regime.

3.14 What impact, if any, do rules governing a public offer for a listed business have on the merger control clearance process in such cases?

Article 3 of Communiqué No. 2017/2 introduced a paragraph to be included in Article 10 of Communiqué No. 2010/4, which reads as follows: if the control is acquired from various sellers by way of a series of transactions in terms of securities within the stock exchange, the concentration could be notified to the Board after the realisation of the transaction, provided that the following conditions are satisfied: (i) the concentration should be notified to the Board without delay; and (ii) the voting rights attached to the acquired securities are not exercised or exercised solely to maintain the full value of its investments based on a derogation granted by the Board. For the sake of completeness, the Board may impose conditions and obligations in terms of such derogation in order to ensure conditions of effective competition.

This provision by Article 3 of Communiqué No. 2017/2 is similar to Article 7(2) of the EC Merger Regulation. At any rate, although there was no similar specific statutory rule in Turkiye on this matter, even before the promulgation of Communiqué No. 2017/2, the case law of the Board was shedding light on this matter. In the *Camargo* decision (*Camargo Corrêa S.A.* decision, 12-24/665-187, 03.05.2012), the Board recognised that the parties could close a public bid on a listed company before the Board's approval, subject to the condition that: (i) the transaction is notified to the Board without any delay; and (ii) the acquirer does not exercise control over the Target Company pending the Board's approval decision.

3.15 Are notifications published?

Once notified to the Authority, the "existence" of a transaction will no longer be a confidential matter. The Authority will publish the notified transactions on its official website with the names of the parties and their areas of commercial activity. Moreover, the reasoned decision of the Board is also published on the Authority's official website upon finalisation.

4 Substantive Assessment of the Merger and Outcome of the Process

4.1 What is the substantive test against which a merger will be assessed?

The Amendment Law amends Article 7 of the Competition Law and introduces the SIEC test, similar to the approach under the EC Merger Regulation. This amendment aims to facilitate a more reliable assessment of unilateral and cooperation effects that could arise as a result of mergers or acquisitions. With this new test, the Board 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. As a matter of Article 7 of the Competition Law, mergers and acquisitions that do not create or strengthen a dominant position or do not significantly impede effective competition in a relevant product market within the whole or part of Turkiye, shall be cleared by the Board.

4.2 To what extent are efficiency considerations taken into account?

The Board may take into account efficiencies in reviewing a concentration to the extent that they operate as a positive factor in terms of better-quality production and/or cost-savings, such as reduced product development costs through integration, reduced procurement and production costs, etc.

4.3 Are non-competition issues taken into account in assessing the merger?

The Board does not take non-competition issues into account in assessing the merger (such as public policy considerations, among others).

4.4 What is the scope for the involvement of third parties (or complainants) in the regulatory scrutiny process?

Pursuant to Article 15 of Communiqué No. 2010/4, the Board may request information from third parties, including the customers, competitors and suppliers of the parties, and other persons related to the transaction. If the Authority requests another public authority's opinion, this will cut the 30-day review period and restart it anew from day one.

While not common practice, it is possible for third parties to submit complaints about a transaction during the review period.

4.5 What information gathering powers (and sanctions) does the merger authority enjoy in relation to the scrutiny of a merger?

Under Articles 14 and 15 of the Competition Law, the Authority may send requests for information and carry out on-the-spot investigations. Monetary penalties are applicable in the case of non-compliance. In this regard, pursuant to Article 16 of the Competition Law, if the information requested is incorrect or incomplete or the requested information is not provided to the Authority, the Authority will impose a turnover-based monetary fine of 0.1 per cent of the turnover generated in the financial year preceding the date of the fining decision (if this is not calculable, the turnover generated in the financial year nearest to the date of the fining decision will be taken into account) on natural persons or legal entities that qualify as an undertaking or as an association of undertakings, as well as the members of these associations in cases where incorrect or misleading information is provided by the undertakings or associations of undertakings in a notification filed for exemption, negative clearance or the approval of a merger or acquisition, or in connection with notifications and applications concerning agreements made before the Competition Law entered into force. As indicated above, the minimum amount of this fine is set at TL 167,473 for 2024 (approximately EUR 5,000 or USD 5,500 at the time of writing as amended by Communiqué No. 2024/1 on the Increase of the Lower Threshold for Administrative Fines, as specified in Paragraph 1, Article 16 of the Competition Law, which is valid until 31 December 2024 and is revised annually).

4.6 During the regulatory process, what provision is there for the protection of commercially sensitive information?

The main legislation that regulates the protection of commercial information is Communiqué No. 2010/3 on Regulation of Right to Access to File and Protection of Commercial Secrets ("**Communiqué No. 2010/3**"). Communiqué No. 2010/3 puts the burden of identifying and justifying information or documents as commercial secrets on the undertakings. Therefore, undertakings must request confidentiality from the Board in writing and justify their reasons for the confidential nature of the information or documents that are requested to be treated as commercial secrets. While the Board can also *ex officio* evaluate the information or documents, the general rule is that information or documents that are not requested to be treated as confidential are accepted as not confidential. The reasoned decisions of the Board are published on the website of the Authority after confidential business information is redacted.

Moreover, under Article 25 of the Competition Law, the Board and personnel of the Authority are bound with a legal obligation to not disclose any trade secrets or confidential information which they have acknowledged during their service.

5 The End of the Process: Remedies, Appeals and Enforcement

5.1 How does the regulatory process end?

The Board may either render an approval or a prohibition decision concerning the proposed transaction. It may also give conditional approval. The reasoned decisions of the Board are served on the representative(s) of the notifying party/parties and are also published on the website of the Authority.

5.2 Where competition problems are identified, is it possible to negotiate "remedies" which are acceptable to the parties?

Article 14 of Communiqué No. 2010/4 enables the parties to provide commitments to remedy substantive competition law issues of a concentration under Article 7 of the Competition Law. Strategic thinking at the time of filing is somewhat discouraged through explicit language confirming that the review periods will start only after the filing is made. The Board is now explicitly given the right to secure certain conditions and obligations to ensure the proper performance of commitments. As per the Remedy Guideline, it is at the parties' own discretion whether to submit a remedy. The Board will neither impose any remedies nor *ex parte* change the submitted remedy. In the event that the Board considers the submitted remedies insufficient, the Board may enable the parties to make further changes to the remedies. If the remedy is still insufficient to resolve the competition problems, the Board may not grant clearance.

5.3 Are there any (formal or informal) policies on the types of remedies which the authority will accept, including in relation to vertical mergers?

As per the Remedies Guideline, parties have discretion to offer behavioural or structural remedies. The Remedies Guideline explains acceptable remedies such as:

- divestment;
- ending connections with competitors;
- remedies that enable undertakings to access certain infrastructure (e.g. networks, intellectual property and essential facilities); and
- remedies on amending a long-term exclusive agreement.

As per the Remedy Guideline, it is at the parties' own discretion whether to submit a remedy. The Board will neither impose any remedies nor *ex parte* change the submitted remedy. In the event that the Board considers the submitted remedies insufficient, the Board may enable the parties to make further changes to the remedies. If the remedy is still insufficient to resolve the competition problems, the Board may not grant clearance. The Remedies Guideline sets out all of the applicable procedural steps and conditions. The parties must submit detailed information about how the remedy would be applied and how it would resolve the competition concerns. The parties may submit to the Board proposals for possible remedies either together with the notification document, during the preliminary review or during the investigation period. If the parties decide to submit the commitment during the preliminary review period, the notification is deemed filed on the date of the submission of the commitment. The Remedies Guideline also provides a form that lists the necessary information and documents to be submitted in relation to the commitments. In terms of monitoring compliance with the remedies submitted, there are no specific time periods for filing with the Authority. The remedies include their own reporting/informing mechanisms, which are approved or altered by the Authority.

5.4 To what extent have remedies been imposed in foreign-to-foreign mergers? Are national carve-outs possible and have these been applied in previous deals?

As foreign-to-foreign mergers fall within the scope of the Turkish merger control regime to the extent that the turnover thresholds are triggered, remedies can also be submitted in foreign-to-foreign transactions by the parties, and thus the Remedy Guideline is also applicable in terms of foreign-to-foreign transactions.

There is no normative regulation allowing or disallowing carve-out arrangements. Carve-out arrangements have been rejected by the Board (e.g. the Total SA Decision 06-92/1186-355, 20.12.2006, and the CVR Inc Inco Limited Decision 07-11/71-23, 07.02.2007) so far arguing that a closing is sufficient for the suspension violation fine to be imposed and that a further analysis of whether a change in control actually took effect in Turkiye is unwarranted. The wording of the Board's reasoned decisions does not analyse the merits of the carve-out arrangements and takes the position that the "carve-out" concept is found to be unconvincing. Therefore, methods such as carve-out or hold separate would not eliminate the filing requirement and they cannot authoritatively be advised as safe for early closing mechanisms recognised by the Board.

5.5 At what stage in the process can the negotiation of remedies be commenced? Please describe any relevant procedural steps and deadlines.

The parties may submit to the Board proposals for possible remedies either together with the notification document, during the preliminary review or during the investigation period. If the parties decide to submit the commitment during the preliminary review period, the notification is deemed filed on the date of the submission of the commitment. In any case, a signed version of the commitment text that contains detailed information on the context of the commitment should be submitted to the Authority.

5.6 If a divestment remedy is required, does the merger authority have a standard approach to the terms and conditions to be applied to the divestment?

The form and content of the divestment remedies vary significantly in practice. Examples of the Board's pro-competitive divestment remedies include divestitures, ownership unbundling, legal separation, access to essential facilities, obligations to apply non-discriminatory terms, etc. As per the Remedy Guideline, the parties are required to submit detailed information regarding how the remedy would be applied and how it would resolve competition concerns. The Remedy Guideline states that the parties can submit behavioural or structural remedies. Although there are few decisions in which behavioural remedies are accepted (see, for example, *Potas/Antalya Airport*, 23-22/426-142, 12.05.2023, *EssilorLuxottica/Hal Holding*, 21-30/395-199, 10.06.2021, *Bekaert/Pirelli*, 15-04/52-25, 22.01.2015; *Obilet/Biletal*, 21-33/449-224, 01.07.2021; *Essilor/Luxottica*, 18-36/585-286, 01.10.2018; and *Migros/Anadolu Industry Holding*, 29/420-117, 09.07.2015), the majority of conditional clearance decisions are based on structural remedies (see *ÇimSA/Bilecik*, 08-36/481-169, 02.06.2008; *Mey İçki/Diageo*, 11-45/1043-356, 17.08.2011; *Burgaz Rakı/Mey İçki*, 10-49/900-314, 08.07.2010; *Essilor/Luxottica*, 18-36/585-286, 01.10.2018; and *Lesaffre/Dosu Maya*, 18-17/316-156, 31.05.2018). It explains acceptable remedies, such as divestment, to cease all kinds of connection with the competitors, remedies that enable undertakings to access certain infrastructure (e.g. networks, intellectual properties, essential facilities) and remedies on amending the long-term exclusive agreement.

5.7 Can the parties complete the merger before the remedies have been complied with?

The Board's clearance decision is conditional on the application of the remedies. Whether the parties may complete the merger before the remedies have been complied with depends on the nature of the remedies. Remedies may either be a condition precedent for the closing or may be designed as an obligation post-closing of the merger. The parties may complete the merger if the remedies are not designed as a condition precedent for the closing.

5.8 How are any negotiated remedies enforced?

As per the Remedy Guideline, in the case of a divestiture, a monitoring trustee is appointed by the parties to control the divestment process, and such an appointment must be approved by the Authority (e.g. *Luxottica/Essilor*, 18-36/585-286, 01.10.2018; and *AFM/Mars*, 12-41/1164-M, 09.08.2012). In terms of behavioural remedies, the Board monitors the application of the behavioural commitments submitted to the Authority (e.g. *Bekaert-Pirelli*, 15-04/52-25, 22.01.2015; and *Migros/Anadolu Industry Holding*, 15-29/420-117, 09.07.2015).

5.9 Will a clearance decision cover ancillary restrictions?

Article 13(5) of Communiqué No. 2010/4 provides that the approval granted by the Board concerning the transaction would also cover those restraints that are directly related and necessary to the implementation of the transaction. The parties may engage in self-assessment as to whether a particular restriction could be deemed ancillary. In cases where the transaction involves restraints with a novel aspect, which have not been addressed in the Guideline on Undertakings Concerned and the Board's previous decisions, upon the parties' request, the Board may assess the restraints in question. In the event that the ancillary restrictions are not compliant, the parties may face an Article 4 investigation.

5.10 Can a decision on merger clearance be appealed?

Yes, as per Article 55 of the Competition Law, the administrative sanction decisions of the Board can be submitted for judicial review before the administrative courts in Ankara.

5.11 What is the time limit for any appeal?

The Board's administrative sanction decisions can be appealed before the administrative courts in Ankara by filing an appeal case within 60 days upon receipt by the parties of the reasoned decision of the Board.

5.12 Is there a time limit for enforcement of merger control legislation?

If the parties to a notifiable transaction violate the suspension requirement, the statute of limitation regarding the sanctions for infringements is eight years, pursuant to Article 20(3) of the Law on Misdemeanours No. 5326.

6 Miscellaneous

6.1 To what extent does the merger authority in your jurisdiction liaise with those in other jurisdictions?

The Authority is empowered to contact certain regulatory authorities around the world in order to exchange information, including the European Commission. In this respect, Article 43 of Decision No. 1/95 of the EC-Turkiye Association Council authorises the Authority to notify and request the European Commission (Competition Directorate-General) to apply relevant measures if the Board believes that transactions realised in the territory of the European Union adversely affect competition in Turkiye. Such a provision grants reciprocal rights and obligations to the parties (European Union-Turkiye), and thus the European Commission has the authority to request the Board to apply relevant measures to restore competition in relevant markets.

Moreover, the research department of the Authority makes periodic consultations with relevant domestic and foreign institutions and organisations.

Apart from those, the Authority has international cooperation with several antitrust authorities in other jurisdictions. Additionally, the Authority develops training programmes for cooperation purposes. In recent years, programmes have been organised for the board members of the Pakistani Competition Authority, top managers of the National Agency of the Kyrgyz Republic for Anti-Monopoly Policy and Development of Competition, members of the Mongolian Agency for Fair Competition and Consumer Protection, and board members of the Authority. Similar programmes have also been developed in cooperation with the Azerbaijan State Service for Antimonopoly Policy and Consumers' Rights Protection, the State Committee of the Republic of Uzbekistan on De-monopolisation and the Anti-Monopoly Committee of Ukraine. These programmes were held according to the bilateral cooperation agreements.

In April 2018, the Authority entered into cooperation agreements with Kosovo, Macedonia and Serbia. Furthermore, the Authority signed a cooperation protocol with the competition authorities of Azerbaijan in February 2020 and Morocco on 12 January 2021.

The Authority has also organised the Istanbul Competition Forum in collaboration with the United Nations Conference on Trade and Development ("**UNCTAD**") since 2019 to discuss and debate a wide range of key and emerging competition law issues.

In 2024 and 2023, the Authority participated in the following programmes: (i) ICN Advocacy Working Group; (ii) Interim Measures in Unilateral Conduct Proceedings; (iii) OECD-GVH Regional Centre for Competition Seminar; (iv) UCWG's "Tying and Bundling in Digital Era" Webinar; (v) OECD's 141st Competition Committee and 22nd Global Forum on Competition; (vi) Albanian Competition Authority's Conference; (vii) The II International Conference on Competition and Consumer Protection; (viii) Competition Day 2023; (ix) Competition Promotion and Consumer Protection Committee of the Republic of Uzbekistan's Conference; (x) UNCTAD Intergovernmental Group of Experts on Consumer Protection Law and Policy 2023; (xi) OECD – Using Microdata For Start-Up And Venture Capital Analysis: Resources, Challenges and Opportunities; (xii) OECD Competition Committee, Working Parties 2 and 3; and (xiii) OECD Global Forum on Competition.

6.2 What is the recent enforcement record of the merger control regime in your jurisdiction?

Pursuant to the decision statistics provided by the Authority for 2023, the Board reviewed 217 concentrations in the year 2023. Among 217 concentrations, 139 were acquisitions, 73 were joint ventures, two were mergers and three were privatisations. The Board approved 184 concentrations unconditionally and three concentrations conditionally; 30 were out of the scope of merger control (i.e. they either did not meet the turnover thresholds or fell outside the scope of the merger control system owing to a lack of change in control).

Majority of these mergers and acquisition activities consist top 10 sectors which are IT and Platform services, chemical and mining, healthcare, automotive, logistic, warehousing and post, food industry, infrastructure services, machine industry, construction and banking, capital markets, finance and industry sectors. These sectors approximately account for the 88% of the concentrations in 2023.

Among these concentrations, 94 of them are Turkiye based target companies, excluding privatisations. Moreover, within the number of transactions which are all companies that are Turkiye based, all companies are foreign based and at least one of the companies that are Turkiye and foreign based is 48, 118 and 31, respectively.

6.3 Are there any proposals for reform of the merger control regime in your jurisdiction?

The Turkish merger control provisions aim to embody the Authority's more than 20 years of enforcement experience and bring Turkish competition law closer to EU competition law. It is designed to be more compatible with the way the law is being applied in practice and aims to further comply with EU competition law. The most prominent changes and mechanisms introduced by the Amendment Law are as follows:

- *de minimis* principle for agreements, concerted practices or decisions of associations of undertakings;
- SIEC test for mergers and acquisitions;
- behavioural and structural remedies for anticompetitive conduct;
- commitments and settlement mechanisms;
- clarification on the powers of the Authority in on-site inspections; and
- clarification on the self-assessment procedure in the individual exemption mechanism.

Since the introduction of the Amendment Law, the majority of the newly introduced mechanisms and investigation methods were clarified via the enactment of secondary legislation. The Authority published its Guidelines on Examination of Digital Data during On-site Inspections on 8 October 2020, which set forth the general principles with respect to the examination, processing and storage of data and documents held in electronic media and information systems during on-site inspections. Moreover, the Authority published the Regulation on the Settlement Procedure Applicable in Investigations on Agreements, Concerted Practices and Decisions Restricting Competition and Abuses of Dominant Position on 15 July 2021, which sets forth rules and procedures concerning the settlement process for undertakings that admit to the existence of a violation.

Furthermore, the Authority published the Communiqué on the Commitments to be Offered in Preliminary Inquiries and Investigations Concerning Agreements, Concerted Practices and Decisions Restricting Competition and Abuse of Dominant Position on 16 March 2021, which set out principles and procedures in relation to commitments submitted by undertakings in order to eliminate competition problems. The Authority also published the Communiqué on Agreements, Concerted Practices and Decisions and Practices of Associations of Undertakings that do not Significantly Restrict Competition on 16 March 2021, which set out the principles regarding the criteria to be used to identify the practices of the undertakings that can be excluded from the scope of the investigation.

Moreover, with the amendment introduced by Communiqué No. 2021/4 on the Amendments to the Block Exemption Communiqué on Vertical Agreements ("**Communiqué No. 2021/4**"), which was promulgated in the Official Gazette dated 5 November 2021, No. 31650, the threshold regarding the supplier's market share of the market(s) for the contract goods has been lowered to 30 per cent. Accordingly, only agreements of undertakings that have market shares below 30 per cent in the relevant product markets qualify for the block exemption under Block Exemption Communiqué No. 2002/2 on Vertical Agreements. Thus, if the relevant market shares of the undertakings in question exceed the 30 per cent threshold, the agreement automatically falls outside the scope of the block exemption rules. In that case, the relevant suppliers may not impose any kind of direct or indirect vertical restraints on buyers with respect to the goods or services covered by the agreements, unless an "individual exemption" is granted by a decision of the Board.

Further, as of 16 December 2023, Regulation on Active Cooperation for Detecting Cartels entered into force, replacing the former leniency regulation, which had been in force since February 15, 2009. The Leniency Regulation, *inter alia*, extended full immunity to both cartel parties and facilitators, including hub-and-spoke cartels, and to establish a clear distinction between the leniency programme and the settlement procedure, it introduced a new requirement of a "document that holds value", obliging applicants to provide documents considered valuable in reinforcing the Authority's ability to establish the cartel.

Also, the Draft Guidelines on Competition Infringements in Labor Markets ("**Draft Guidelines**") was announced on the Turkish Competition Authority's website on September 16, 2024, for public opinion. The Draft Guidelines focus on the application of Law No. 4054 to labour markets that outlines the specific types of anti-competitive behaviours that can occur in the labour context, which are: wage-fixing agreements; no-poaching agreements; and information exchange. The Draft Guidelines also discuss ancillary restraints, it is noted that agreements which include labour related restrictions that are directly related to, necessary for, and proportionate to the main agreement may be regarded as ancillary restraints. Through the Draft Guideline, the Authority asserted its main principles to ensure certainty regarding to violations in labour markets.

6.4 Please identify the date as at which your answers are up to date.

These answers are up to date as at 4 October 2024.

7 Is Merger Control Fit for Digital Services & Products?

7.1 In your view, are the current merger control tools suitable for dealing with digital mergers?

There are no debates before the Authority related to the suitability of the merger tools to address digital mergers specifically; the current SIEC test is also applicable to these mergers. The Authority is in the process of considering legislative action concerning digital markets. The Authority's intent can also be found within its final report on its review regarding e-marketplace platforms published on 14 April 2022, which states that the Authority is working on digital market regulations and mentions Regulation (EU) 2022/1925 (the "**Digital Markets Act**") as a basis for these regulations. However, the proposed text of the Turkish act is not publicly available, and its details remain unknown.

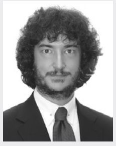
7.2 Have there been any changes to law, process or guidance in relation to digital mergers (or are any such changes being proposed or considered)?

On 4 March 2022, the Authority published the 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 and introduced the threshold exemption for technology undertakings. Please refer to question 2.4 above for more details. In addition, the Authority updated the Horizontal Guidelines on 4 April 2022 by including explanations on, *inter alia*, (i) the theory of harm regarding digital markets and markets that are dependent on innovation and potential competition, and (ii) general principles applicable to the transactions whereby newly established or developing enterprises are acquired. Moreover, the Authority updated the Non-Horizontal Guidelines by providing, *inter alia*, further explanations regarding the unilateral effects and coordinated effects that may arise from the transactions with vertical overlaps or concerning multi-markets. Moreover, the Authority is currently considering legislative measures pertaining to digital markets, anticipating the introduction of new obligations for undertakings with significant market power. The proposed amendments are expected to incorporate regulations on gatekeepers, potentially integrating them into Article 6 of Law No. 4054 or as a distinct article, though the timeline for adoption remains uncertain.

7.3 In your view, have any cases highlighted the difficulties of dealing with digital mergers? How has the merger authority dealt with such difficulties?

There are no cases where the Board has highlighted the difficulties of dealing with digital mergers yet.

On the other hand, on 18 April 2023, the Authority published the Study on the Reflections of Digital Transformation on Competition Law ("**Study**") on its website. In the Study, it is stated that the difficulty of digital markets in determining market power and assessing the level of competition in the market also complicates the assessment of mergers and acquisitions transactions.



Dr. Gönenç Gürkaynak is the founding partner of ELIG Gürkaynak Attorneys-at-Law, a leading law firm of 95 lawyers based in Istanbul, Turkiye. Dr. Gürkaynak graduated from Ankara University, Faculty of Law in 1997 and was called to the Istanbul Bar in 1998. Dr. Gürkaynak received his LL.M. degree from Harvard Law School, and he has received his Doctor of Philosophy in Law (Ph.D.) degree from University College London (UCL) Faculty of Laws. Before founding ELIG Gürkaynak Attorneys-at-Law in 2005, Dr. Gürkaynak worked as an attorney at the Istanbul, New York and Brussels offices of a global law firm for more than eight years. In addition to his membership to the Istanbul Bar since 1998, he was admitted to the American Bar Association in 2002; New York Bar in 2002 (currently non-practising; registered); Brussels Bar in 2003–2004 (B List; not maintained); and Law Society of England & Wales, 2004 (currently non-practising; registered). Dr. Gürkaynak heads the competition law and regulatory department of ELIG Gürkaynak Attorneys-at-Law. He has unparalleled experience in Turkish competition law counselling issues with more than 25 years of competition law experience, starting with the establishment of the Turkish Competition Authority. Every year, Dr. Gürkaynak represents multinational companies and large domestic clients in more than 35 written and oral defences in investigations of the Turkish Competition Authority, about 15 antitrust appeal cases in the high administrative court and over 85 merger clearances of the Turkish Competition Authority, in addition to coordinating various worldwide merger notifications, drafting non-compete agreements and clauses, and preparing hundreds of legal memoranda concerning a wide array of Turkish and European Commission competition law topics.

In addition to his continuing private practice as an attorney, primarily through ELIG Gürkaynak Attorneys-at-Law in Istanbul/Turkiye, Dr. Gürkaynak is an Honorary Professor of Practice at UCL Faculty of Laws in London. In addition to his academic role at University College London, he also teaches competition law at Bilkent University Faculty of Law in Ankara/Turkiye since 2005, and he has taught competition law in more than 10 universities in Turkiye, in the EU, in the UK and in the US in the last 18 years.

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ELIG Gürkaynak Attorneys-at-Law is committed to providing its clients with high-quality legal services. We combine a solid knowledge of Turkish law with a business-minded approach to develop legal solutions that meet the ever-changing needs of our clients in their international and domestic operations.

Our competition law and regulatory department is led by the founding partner, Dr. Gönenç Gürkaynak, along with six partners, nine counsel and 40 associates. In addition to unparalleled experience in merger control issues, ELIG Gürkaynak has vast experience in defending companies before the Turkish Competition Board in all phases of antitrust investigations, abuse of dominant position cases, leniency handlings, and before courts on issues of private enforcement of competition law, along with appeals of the administrative decisions of 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. ELIG Gürkaynak has an in-depth knowledge of representing defendants and complainants in complex antitrust investigations concerning all forms of abuse of dominant position allegations, and all forms of restrictive horizontal and/or vertical arrangements, including price-fixing, retail price maintenance, refusal to supply, territorial restrictions and concerted practice allegations.

In addition to significant antitrust litigation expertise, the firm has considerable expertise in administrative law, and is well equipped to represent clients before the High State Court, both on the merits of a case and for injunctive relief.

ELIG Gürkaynak also advises clients on a day-to-day basis in a wide range of business transactions that almost always contain antitrust law issues, including distributorship, licensing, franchising and toll manufacturing issues.

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