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Cartels And Leniency

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In-Depth: Cartels and Leniency (formerly The Cartels and Leniency Review) provides a practical overview of the laws and policies aimed at combating cartel activity across key jurisdictions worldwide. It addresses major emerging and unsettled issues surrounding unlawful agreements with competitors, and analyses recent enforcement trends and regulatory changes – offering valuable insights to practitioners and corporates alike.

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Türkiye

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Summary

Introduction

This article delves into the details of Türkiye's legislation concerning cartels, exploring the powers vested in the Turkish Competition Authority (the Authority), and the approach outlined in Communiqué No. 2021/3, which identifies 'naked and hard violations'. Furthermore, within this article, the jurisdictional landscape is examined, highlighting the 'effects theory' and the Authority's jurisdictional scope, allowing the Turkish Competition Board (the Board) to address cartel conduct with global implications.

The article also provides information on the Regulation on Active Cooperation for Detecting Cartels (the Leniency Regulation), which has been in effect since December 2023, and elucidates its role in incentivising cartel parties to proactively disclose valuable information. Detailed discussions herein cover the scope, application process and obligations of leniency applicants, with a focus on the Board's dedication to augmenting clarity and diminishing emphasising the Authority's commitment to enhancing clarity and reducing uncertainty.

Furthermore, the article provides information on the Regulation on Administrative Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position (the Regulation on Fines), which has been in effect since December 2024, and sets out detailed guidelines on the calculation of monetary fines. One of the prominent amendments brought by the new regulation is that while the revoked regulation provided a distinction between 'cartel' and 'other violations' in the determination of base administrative monetary fines and provided lower and upper limits for said base fines determined based on the type of violation, the new regulation removed this distinction based on the type of violation and the lower and upper limits foreseen for the relevant violations. Therefore, the Authority has discretion to determine a base fine rate up to the statutory maximum of 10 per cent of the undertaking's turnover, as set forth in Article 16 of Law No. 4054

The concluding section provides an outlook on recent cartel enforcement highlights, showcasing key decisions in 2024, and emphasises the Board's commitment to combating anticompetitive practices across various sectors.

Year in review

In 2024, the Authority focused on various sectors, initiating inquiries in the labour market, fast-moving consumer goods (FMCG), cement, chemistry, the automative industry, education and digital markets.

Additionally, on 18 March 2024, the Authority published its final report on the review regarding the fuel oil sector. Furthermore, the Authority signed a Cooperation Protocol with the Public Procurement Authority, intending to conduct joint statistical modelling, analysis work, and AI-assisted technologies to fight procurement cartels.

Legislatively, on 21 November 2024, Guidelines on Competition Infringements in Labour Markets (the Guidelines on Labour Markets) was adopted by the Board, which sheds light on the framework of competition law enforcement (including cartel enforcement) in labour

markets. According to the Guidelines on Labour Markets, (1) wage-fixing agreements are assessed within the same framework as price-fixing agreements; and (2) no-poaching agreements are considered within the same framework as allocation of customers and providers.

Additionally, the Regulation on Administrative Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position (the Regulation on Fines) was published in the Official Gazette and came into effect on 27 December 2024. It replaced the former regulation on fines, which had been enforced since 15 February 2009.

Ongoing considerations for legislative measures in digital markets, including obligations for significant market players, are underway. Particularly, the Ministry of Trade prepared a Draft Regulation on Amending Law No. 4054 that specifically focuses on updating existing competition rules to establish and preserve competition in digital markets. In 2024, the Authority shared its final draft with related parties and held stakeholder meetings to learn their opinions on the current state of the draft. The draft amendment is a result of the Authority's efforts to regulate competition issues in digital markets, which have been ongoing since at least early 2021. However, the timing for its adoption remains unclear at this stage.

Similar to the ongoing trends globally, regarding abuse of dominance investigations, the Authority has focused on digital markets. In its *Google DSP* decision, the Board evaluated whether Google had abused its dominant position in the demand side platform (DSP) services market. The Board concluded that Google gained unfair advantage for its own supply side platform (SSP) service based on its dominance in the publisher ad server services market, the self-preferencing practice in question could complicate the activities of its rivals and was in violation of Article 6 of Law 4054 on the Protection of Competition.-[1] In its *Nesine* decision[2], the Board concluded that Nesine had abused its dominant position in the fixed-odds betting games market through long-term exclusivity agreements in terms of advertising, sponsorship and broadcasting activities. Furthermore, a prominent example where data portability restrictions are evaluated is the *Sahibinden* decision.[3-] In its decision, the Board found that Sahibinden has obstructed its corporate members' ability to use multiple platforms by preventing data portability, implemented actual and contractual exclusivity by the same method and by non-compete obligations it introduced in its contracts, obstructing the operations of its competitors and thereby violating Article 6 of Law No. 4054 on the Protection of Competition.

The Authority has also focused on labour markets by way of having initiated investigations against undertakings, particularly in terms of human resources practices, to assess whether such undertakings violated competition law by entering into wage fixing and non-poaching agreements.

Furthermore, in 2024, commitment and settlement applications were actively evaluated. According to the statistical data for the first half of 2024 announced by the Authority, 66 investigations were concluded by settlement procedure while 11 investigations were concluded by commitments. Leniency-related reasoned decisions included reductions for Güres,[4] Güneş[5] and Yuva[6] which will be explained in detail in the following sections of this chapter. In terms of merger control, the Board assessed Phase II investigations, such as Migros/Elbin Gıda, acknowledging market dynamics in the FMCG retail market and focusing on extensive geographical market definition.[7]

Procedurally, the Board applied the legal principle of *ne bis in idem* and penalised false information provision.[8] Notably, the Constitutional Court's decision impacted on-site inspections, potentially requiring warrants for uncooperative undertakings.[9] The Board issued more than 20 reasoned decisions imposing fines for hindering on-site inspections, reflecting its commitment to effective enforcement.

Enforcement policies and guidance

The relevant legislation on cartel regulation in Türkiye is the Law on Protection of Competition No. 4054 of 13 December 1994 (the Competition Law). In 2020, the Competition Law was subject to essential amendments that were passed by the Grand National Assembly of Türkiye (the Turkish Parliament) on 16 June 2020 and entered into force on 24 June 2020 (the Amendment Law) upon publication in Official Gazette No. 31165. In 2024, some procedural changes have been made in the Competition Law with the Law No. 7511 on Amending the Turkish Commercial Code and Certain Other Laws, which was published in the Official Gazette dated 29 May 2024. With the amendments, 30-day period to submit the first written defence was abolished, the submission of a third written defence became contingent upon a change in the opinion articulated in the investigation report by case handlers, and the time frame for preparation of additional opinion and submission of third written defence has been significantly reduced, from up to 30 days to 15 days for the additional opinion and from up to 60 days to 30 days for third written defence.

The Competition Law finds its underlying rationale in Article 167 of the Turkish Constitution of 1982, which authorises the government to take appropriate measures and actions to secure a free market economy. The Competition Law is similar to European Union law and the Amendment Law seeks to add the experience of more than 20 years of enforcement by the Turkish Competition Authority (the Authority) to the Competition Law and bring it closer to European Union law.

The applicable provision for cartel-specific cases is Article 4 of the Competition Law, which lays down the basic principles of cartel regulation.

Article 4 is akin to and closely modelled on Article 101(1) of the Treaty on the Functioning of the European Union (TFEU). It prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices that have (or may have) as their object or effect the prevention, restriction or distortion of competition within a Turkish product or services market or a part thereof. Article 4 does not set out a definition of the term ‘cartel’, but rather prohibits all forms of restrictive agreements, which would include any form of cartel agreement. Although the Competition Law does not specifically address the definition of a cartel, the Regulation on Active Cooperation for Discovery of Cartels (the Leniency Regulation) defines cartels as: ‘agreements restricting competition or concerted practices between competitors for fixing prices; allocation of customers, providers, territories or trade channels; restricting the amount of supply or imposing quotas, and bid-rigging’.[10]

Article 4 also prohibits any form of agreement that has the potential to prevent, restrict or distort competition. Again, this is a specific feature of the Turkish cartel regulation system, recognising the broad discretionary power of the Competition Board (the Board).

Article 4 sets out a non-exhaustive list of restrictive agreements that is, to a large extent, the same as Article 101(1) of the TFEU. In particular, it prohibits agreements that:

1. directly or indirectly fix purchase or selling prices or any other trading conditions;
2. share markets or sources of supply;
3. limit or control production, output or demand in the market;
4. place competitors at a competitive disadvantage or involve exclusionary practices, such as boycotts;
5. apply dissimilar conditions to equivalent transactions with other trading parties (except for exclusive dealing); and
6. conclude contracts in a manner contrary to customary commercial practice subject to acceptance by the other parties of supplementary obligations that, by their nature or according to commercial usage, have no connection with the subject of the contracts.

In this context, Communiqué No. 2021/3 defines 'naked and hardcore violations' as:

> agreements and/or concerted practices as well as decisions and practices of associations of undertakings on the following subjects, the goal of which is to directly or indirectly prevent, distort or restrict competition in the market for a good or service, or which have led or may lead to these effects:
>
> 1) Price-fixing among competing undertakings, allocation customers, suppliers, regions or trade channels, restriction of supply amounts or imposing of quotas, collusive bidding in tenders, sharing competitively sensitive information, including future prices, output or sales amounts;
>
> 2) fixing flat or minimum sales rates of the buyer in a relationship between undertakings operating at different levels of a production or distribution chain.

A similar definition of naked and hardcore violations is provided in Communiqué No. 2021/2.

The Competition Law authorises the Board to regulate, through communiqués, certain matters under the Competition Law; for example, Communiqué No. 2010/2 on Oral Hearings Before the Board regulates the conduct of procedures by the Board, and Communiqué No. 2012/2 on the Application Procedure for Infringements of Competition regulates the procedures and principles related to applications to the Authority on infringements of Articles 4, 6 or 7 of the Competition Law.

The secondary legislation specifying the details of the leniency mechanism, namely the Leniency Regulation, entered into force on 16 December 2023. It replaced the former leniency regulation, which had been enforced since 15 February 2009. Owing to the

implementation of the Leniency Regulation, the Board is expected to release an updated Guideline on the Regulation for Active Cooperation in the Detection of Cartels, replacing the version issued on 19 April 2013. This Guideline was prepared to provide certainty in interpretations, to reduce uncertainty in practice and, as a requirement of the transparency principle, to provide guidance for undertakings to enable them to benefit from the leniency programme more efficiently.

Moreover, the Regulation on Administrative Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position (the Regulation on Fines) entered into force on 27 December 2024. It replaced the former regulation on fines, which had been enforced since 15 February 2009. It sets out detailed guidelines on the calculation of monetary fines.

Cooperation with other jurisdictions

Article 43 of Decision No. 1/95 of the EC-Turkiye Association Council (Decision No. 1/95) authorises the Authority to notify and request the Directorate-General for Competition of the European Commission to apply relevant measures if the Board believes that cartels organised in the European Union adversely affect competition in Türkiye. The provision grants reciprocal rights and obligations to the parties (the European Union and Türkiye) and thus the European Commission has the authority to request that the Board apply necessary measures to restore competition in the relevant markets.

There are also a number of bilateral cooperation agreements on cartel enforcement matters between the Authority and the competition agencies of other jurisdictions (e.g., Albania, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Egypt, Mongolia, Portugal, Romania, Russia, Serbia, South Korea and Ukraine). The Authority also has close ties with the Organisation for Economic Co-operation and Development, the United Nations Conference on Trade and Development, the World Trade Organization, the International Competition Network and the World Bank. Additionally, the Authority put forward the idea of creating the Balkan Competition Platform in order to strengthen and institutionalise the cooperation between the countries in the region. The Balkan Competition Platform aims to ensure smooth running of markets in the Balkan region, which is a crossroads connecting the east-west and north-south trade corridors and holds an important strategic position, while promoting sustainable and stable development in compliance with the precepts of free market economy. Furthermore, in 2024, the Turkic States Competition Council was formed under the leadership of the Authority with an aim to closely follow the activities of competition authorities from the Turkic states (Türkiye, Kazakhstan, Uzbekistan, Kyrgyzstan, Azerbaijan, Hungary, Turkmenistan and Northern Cyprus) in the field of competition law and policy, and to exchange knowledge and experience in this area.

The research department of the Authority conducts periodic consultations with relevant domestic and foreign institutions and organisations about the protection of competition then assesses the results of its research and submits its recommendations to the Board. A cooperation protocol was signed on 14 October 2009 between the Authority and the Public Procurement Authority to foster a healthy competition environment with regards to public tenders by cooperating and sharing information. The cooperation protocol

with Public Procurement Authority was revised on 5 November 2024. With the revised protocol, the Authority has expanded the cooperation between the two authorities to cover developing AI-assisted tools for detecting competitive risks and possible violations in public procurements as well as conducting joint statistical modelling and analysis work. Particularly, the cooperation aims at using AI-assisted technologies to fight procurement cartels. Informal contacts do not constitute a legal basis for the Authority's actions.

Nevertheless, the interplay between jurisdictions does not materially affect the way the Board handles cartel investigations. The principle of comity is not included as an explicit provision in the Turkish Competition Law. Cartel conduct (whether Turkish or non-Turkish) that was investigated elsewhere in the world can be prosecuted in Türkiye if it has had an effect on non-Turkish markets.

There is no regulation under the Competition Law on restricting or supporting international cooperation regarding extradition or extraterritorial discovery. Nevertheless, like many other competition authorities, the Authority faces various issues in which international cooperation is required. In this respect, there have been various decisions[11] for which the Authority has requested cooperation on dawn raids, information exchange, and notifications and collection of monetary penalties from the competition authorities in other jurisdictions via the Ministry of Foreign Affairs and the Ministry of Justice. However, the Authority has been unsuccessful in these requests.

Jurisdictional limitations, affirmative defences and exemptions

Türkiye is an 'effects theory' jurisdiction in which the main concern is whether the cartel activity has affected the Turkish markets, regardless of the nationality of the applicants, where the cartel activity took place or whether the members have a subsidiary in Türkiye. The Board has refrained from declining jurisdiction over non-Turkish cartels, cartel facilitators or applicants in the past, unless there is an effect on Turkish markets.[12] The Board has yet to enforce monetary or other sanctions against firms located outside Türkiye and without any presence in Türkiye, mostly because of enforcement handicaps (such as difficulties of formal service). The specific circumstances surrounding indirect sales have not been tried under Turkish cartel rules. Article 2 of the Competition Law could potentially support an argument that the Turkish cartel regime does not extend to indirect sales because the cartel activity that takes place outside Türkiye does not in and of itself produce effects in Türkiye.

The underlying basis of the Board's jurisdiction is found in Article 2 of the Competition Law, which captures all restrictive agreements, decisions, transactions and practices to the extent that they have an effect on a Turkish market, regardless of where the conduct takes place.

The Competition Law applies both to undertakings and associations of undertakings. An undertaking is defined as a single integrated economic unit capable of acting independently in the market to produce, market or sell goods and services. Therefore, the Competition Law applies to individuals and corporations alike if they act as an undertaking.

The Amendment Law introduced the *de minimis* principle under Article 41 of the Competition Law, with the aim of steering the direction of the application of the Law, and public resources, towards more significant violations. The secondary legislation providing details on the process and procedure related to application of the *de minimis* principle, Communiqué No. 2021/3, came into force on 16 March 2021. Overall, the *de minimis* principle applies to the following categories of agreements, which are deemed not to significantly restrict competition in the market:

1. agreements signed between competing undertakings where the total market share of the parties to the agreement does not exceed 10 per cent in any of the relevant markets affected by the agreement; and
2. agreements signed between non-competing undertakings where the market share of each of the parties does not exceed 15 per cent in any of the relevant markets affected by the agreement.

Moreover, the *de minimis* principle is not applicable to naked and hardcore violations such as price fixing, territory or customer sharing and restriction of supply. In other words, cartels do not benefit from the*de minimis* principle.

There are no industry-specific offences or defences. The Competition Law applies to all industries, without exception. To the extent that they act as an undertaking within the meaning of the Competition Law, state-owned entities also fall within the scope of Article 4. Nevertheless, there are sector-specific antitrust exemptions. The prohibition on restrictive agreements and practices does not apply to agreements that benefit from a block exemption or an individual exemption (or both) issued by the Board.

The applicable block exemption rules are:

- Block Exemption Communiqué No. 2002/2 on Vertical Agreements;[13]
- Block Exemption Communiqué No. 2008/3 for the Insurance Sector;
- Block Exemption Communiqué No. 2008/2 on Technology Transfer Agreements;
- Block Exemption Communiqué No. 2013/3 on Specialisation Agreements;
- Block Exemption Communiqué No. 2016/5 on Research and Development Agreements; and
- Block Exemption Communiqué No. 2017/3 on Vertical Agreements in the Motor Vehicles Sector.

The Guidelines on Horizontal Cooperation are another significant secondary legislative instrument available to the Board, containing a general analysis of Articles 4 and 5 of the Competition Law and general competition law concerns on information exchanges, research and development agreements, joint production agreements, joint purchasing agreements, commercialisation agreements and standardisation agreements. These are all modelled on their respective equivalents in the European Union.

Restrictive agreements that do not benefit from the block exemption under the relevant communiqué or an individual exemption issued by the Board are caught by the prohibition in Article 4. A number of horizontal restrictive agreement types, such as price-fixing, market

allocation, collective refusals to deal (group boycotts) and bid-rigging have consistently been deemed to be illegal per se.

The antitrust regime also condemns concerted practices, and the Authority easily shifts the burden of proof in connection with concerted practice allegations through a mechanism called the presumption of concerted practice. A concerted practice is a form of coordination without a formal agreement or decision whereby two or more companies come to an understanding to avoid competing with each other. The coordination need not be in writing. It is sufficient that the parties have expressed their joint intention to behave in a particular way; for example, in a meeting, a telephone call or an exchange of letters.

Final decisions of the Board, including its decisions on interim measures and fines, can be submitted for judicial review before the administrative courts in Ankara by filing an appeal case within 60 days of receipt by the parties of the justified decision of the Board. According to Article 27 of the Administrative Procedural Law, filing an administrative action does not automatically stay the execution of the decision of the Board. However, upon the request of the plaintiff, the court may, with reasoned justification, decide to stay the execution of the decision if execution is likely to cause serious and irreparable damage and the decision is highly likely to be against the law (i.e., there is a prima facie case to this effect).

Judicial review by the Ankara administrative courts usually takes between 12 and 24 months. Administrative (and private) litigation cases are subject to judicial review before the regional courts (established in 2016), creating a three-level appellate court system consisting of administrative courts, regional courts and the Council of State (or the Court of Cassation for private cases).

A regional court will go through a case file and investigate it on both procedural and substantive grounds and then make a decision on the merits of the case. The regional court's decision will be considered final but will, in exceptional circumstances, be subject to review by the Council of State, as set out in Article 46 of the Administrative Procedure Law, in which case the decision of the regional court will not be considered final and the Council of State may decide to uphold or reverse that decision. If the decision is reversed by the Council of State, it will be returned to the deciding regional court, which will in turn issue a new decision that takes into account the Council of State's decision. As the regional courts are newly established, there is as yet insufficient experience of how long it takes for a regional court to finalise its review of a file. Accordingly, the Council of State's review period (for a regional court's decision) within the new system should also be tested before providing an estimated time period. Court decisions in private suits are appealable before the Court of Cassation. The appeal process in private suits is governed by the general procedural laws and usually takes between 24 and 36 months.

Leniency programmes

Within the scope of the Leniency Regulation, the leniency programme is available to cartel parties[14] as well as the cartel facilitators[15] which expanded the scope of full immunity to the parties to a hub-and-spoke cartel or other cartel facilitators, who are, in practice, held liable for administrative sanctions in the same way as the cartel parties do, by allowing

them to also benefit from active cooperation and broadened the Authority's avenues for accepting leniency applications.

The Leniency Regulation mainly applies to cartel infringements which is defined in the Article 3 paragraph c) of the Leniency Regulation provides for a definition of cartel that encompasses price-fixing; customer, supplier or market sharing; restricting output or placing quotas; and bid-rigging. However, the Leniency Regulation provides the opportunity for applicants to receive an exemption or fine reduction under the leniency mechanism. This applies even if the applicant initially applies for leniency, believing it to be a cartel violation, but the Board later determines that the specific infringement does not qualify as a cartel. The aim is to address concerns of undertakings that may be hesitant to utilise the leniency program due to uncertainties about the nature of the infringement.

The Leniency Regulation foresees that a cartel party or cartel facilitator which submits the information and documents and meets the conditions mentioned below applies for leniency within a period of 3 months following the receipt of the Investigation Notice. Moreover, the applicant acquiring additional information and documents subsequent to the initial application can submit these materials before the conclusion of the second written defence period.

Depending on the application order, there may be total immunity from, or reduction of, a fine.

Pursuant to the Leniency Regulation, the following conditions must be met before the applicant can benefit from immunity or fine reduction.

The applicant must submit:

1. information on the products affected by the cartel;
2. information on the geographical scope of the cartel;
3. information on the duration of the cartel;
4. the names or trade names and addresses of the cartelists; and of cartel facilitators,
5. the dates, locations and participants of the cartel meetings; and
6. other information or documents about the cartel activity.

Aligned with the legislation of the European Union, the Leniency Regulation provides an additional requirement for fine reduction eligibility. This requirement mandates that applicants must provide documents deemed to have value, as defined in the Leniency Regulation as 'information and/or documents that will reinforce the Board's ability to prove the cartel, taking into account the evidence already held by the Board'. Within this requirement, the Authority aims to establish a clear distinction between the active cooperation procedure and the settlement procedure. Although the Leniency Regulation only offers a basic definition of the term 'document that holds value', it is anticipated that the forthcoming revised Guideline on Leniency Programs will provide more comprehensive insights into determining which documents should be regarded as holding value. Additionally, if a leniency application from a particular undertaking is rejected due to the documents it submitted not meeting the criteria of 'documents that hold value', the information and documents provided by that undertaking will be excluded from the file's

scope. Consequently, they will not be considered as a basis for the final decision made at the conclusion of the investigation.

It is worth mentioning that the Leniency Regulation includes the submission of information and documents relating to meetings conducted in a digital environment, along with the relevant information and documents produced during such interactions.

The required information may be submitted verbally.

Additionally:

1. the applicant must avoid concealing or destroying information or documents on the cartel activity;
2. unless the Cartels and On-Site Inspections Support Unit decides otherwise, the applicant must stop taking part in the cartel;
3. unless the Cartels and On-Site Inspections Support Unit instructs otherwise, the application must be kept confidential until the investigation report has been served; and
4. the applicant must continue to actively cooperate with the Authority until the final decision on the case has been rendered.

In any case where an application containing limited information is accepted, further information needs to be submitted subsequently. Although it provides no detailed principles for the marker system, pursuant to Article 6 of the Leniency Regulation a document showing the date and time of the application and a request for time to prepare the requested information and evidence (if such a request is pertinent) will be given to the applicant by the assigned unit.

The first firm to file an appropriately prepared application for leniency may benefit from total immunity if the application is made before the investigation report is officially served and the Authority is not in possession of any evidence indicating a cartel infringement. Employees or managers of the first applicant will also be totally immune; however, the applicant must not have been the ringleader. If the applicant has forced any other cartel members to participate in the cartel, a reduction in the fine of only 25 to 50 per cent is available for the firm and between 20 and 100 per cent for the employees or managers.

In addition to this, the applicant must:

1. end its involvement in the infringement;
2. provide the Authority with all relevant information on the infringement (e.g., dates and locations of meetings, the products affected, the companies and individuals implicated);
3. not conceal or destroy any information; and
4. continue to cooperate with the Authority after applying for leniency and to the extent necessary.

The second firm to file an appropriately prepared application will receive a fine reduction of between 20 and 40 per cent. Employees or managers of the second applicant who actively

cooperate with the Authority will benefit from a fine reduction of between 20 and 100 per cent.

Finally, subsequent applicants will receive a reduction of between 15 and 30 per cent. Employees or managers of subsequent applicants will benefit from a reduction of between 15 and 100 per cent.

Current employees of an applicant also benefit from the same level of leniency or immunity that is granted to the entity. There are, as yet, no precedents about the status of former employees. Apart from this, according to the Leniency Regulation, a manager or employee of an applicant may also apply for leniency until the investigation report is officially served. Such an application would be independent from applications (if any) by the applicant itself. Depending on the application order, there may be total immunity from, or a reduction of, a fine imposed on the manager or employee. The conditions for immunity or reduction are the same as those designated for the applicants.

Turkish law does not prevent counsel from representing both the investigated corporation and its employees, as long as there are no conflicts of interest. That said, employees are hardly ever investigated separately.

Penalties

The sanctions that may be imposed under the Competition Law are administrative in nature. Therefore, the Competition Law leads to administrative fines (and civil liability) but no criminal sanctions. Cartel conduct will not result in imprisonment of the individuals implicated. That said, there have been cases in which the matter was referred to a public prosecutor before and after the investigation under the Competition Law was complete. On that note, bid-rigging activity may be criminally prosecutable under Section 235 et seq. of the Criminal Code. Illegal price manipulation (i.e., manipulation through disinformation or other fraudulent means) may also be punished by up to two years' imprisonment and a judicial monetary penalty under Section 237 of the Criminal Code.

Recently, the Regulation on Fines was amended. With the new Regulation, the distinction between 'cartel' and 'other violations' in the determination of base administrative monetary fines and lower and upper limits for said base fines determined based on the type of violation (i.e., 2 per cent to 4 per cent for cartels and 0.5 per cent to 3 per cent for other violations) has been revoked. Furthermore, the new Regulation foresees that the base fine will be determined by considering, in particular, the severity of the harm caused or likely to be caused by the violation and whether the nature of the violation is naked and/or hard-core. It simply notes that the base fine will be determined by considering, in particular, the severity of the harm caused or likely to be caused by the violation and whether the nature of the violation is naked and/or hard-core. Moreover, while the revoked regulation foresaw an increase in base administrative monetary fines if the violation lasted for more than one but less than five years and more than five years, the new Regulation puts forth specific base fine rates for violations lasting more than one year but less than two years, more than two years but less than three years, more than three years but less than four years, more than four years but less than five years, and more than five years. Additionally, the new Regulation redefines aggravating factors and mitigating factors. Namely, aggravating factors are defined as recurrence of violations of Article 4, Article

6 or both, continued violation after the notification of the investigation decision, decisive role in terms of infringement or the breach of confidentiality requirement under Article 12 of Regulation on the Settlement Procedure Applicable in Investigations on Agreements, Concerted Practices and Decisions Restricting Competition and Abuses of Dominant Position whereas mitigating factors are defined as assistance with on-site inspections (beyond fulfilling legal obligations), coercion to the violation by other undertakings, limited involvement in the violation, low revenue share of the activities constituting the violation, the presence of overseas sales revenues in the annual gross revenues and so on. Moreover, while the revoked regulation provided lower and upper limits for the amount of discount to be applicable to cases in consideration of mitigating factors, the new regulation removes these lower and upper limits. Therefore, the Authority has discretion to determine a base fine rate up to the statutory maximum of 10 per cent of the undertaking's turnover, as set forth in Article 16 of Law No. 4054. Furthermore, in terms of fines to be applied to managers and employees who have had a decisive influence on the violation, the new regulation removes the lower limit previously foreseen with the revoked regulation and only keeps the upper limit.

As stated in the Article 16 of the Law, in cases of proven cartel activity, the undertakings concerned will be separately subject to fines of up to 10 per cent of the turnover generated in Türkiye in the financial year prior to the date of the fining decision (or, 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). Employees or members of the executive bodies of the undertakings or associations of undertakings 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 undertaking or association of undertakings. The Competition Law makes reference to Article 17 of the Law on Minor Offences to require the Board to take into consideration factors such as the following when determining the magnitude of the monetary penalty:

1. the level of fault and the amount of possible damage in the relevant market;
2. the market power of the undertakings within the relevant market;
3. the duration and recurrence of the infringement;
4. the cooperation or driving role of the undertakings in the infringement; and
5. the financial power of the undertakings or their compliance with their commitments.

In addition to the monetary sanction, restrictive agreements may be deemed legally invalid and unenforceable with all their legal consequences. Under Article 9, the Amendment Law stipulates that besides an Article 7 violation, in determination of Article 4 and 6 infringements, the Board may order behavioural as well as structural remedies to re-establish competition and end the infringement. Overall, the Board may order the cessation of practices and the adoption of remedies to restore the status quo, without imposing an administrative fine. Additionally, in cases where there is a possibility of serious and irreparable damage, the Competition Law authorises the Board to take interim measures until the final resolution on the matter is issued.

The Amendment Law introduced a commitment and settlement mechanism under Article 43 of the Competition Law, in an effort to see investigation processes concluded in a timely

manner. As noted above, the Authority published Communiqué No. 2021/2, the secondary legislation providing details of the commitment mechanism, in March 2021.

The commitment mechanism allows parties to voluntarily offer commitments during a preliminary investigation or fully-fledged investigation to eliminate the Authority's competitive concerns in terms of restrictive agreements and abuse of dominance. The commitment mechanism is not applicable to those naked and hardcore violations listed earlier.

In contrast, the settlement mechanism is applicable to naked and hardcore violations. Under the settlement mechanism, the Board may, *ex officio* or upon a party's request, initiate a settlement procedure. Parties that admit to competition infringement until the official notification of the investigation report may benefit from a reduction of the administrative monetary fine by up to 25 per cent. The Authority published the Settlement Regulation on 15 July 2021.

The Board's *Kınık Maden Suları AŞ* (*Kınık*) and *Beypazarı İçecek Pazarlama Dağıtım Ambalaj Turizm Petrol İnşaat Sanayi v. Ticaret AŞ* (*Beypazarı*) decision constitutes the first combined application of the Settlement and former Leniency Regulation. In its *Kınık* decision,[16] the Board applied a 25 per cent reduction under the Settlement Regulation (the highest reduction possible) and a 35 per cent reduction under the former Leniency Regulation, amounting in total to a 60 per cent reduction of the administrative monetary fine. Thus, the monetary fines imposed on Kınık decreased drastically from 2,322,328.75 Turkish lira to 928,931.50 Turkish lira. Subsequently, in its *Beypazarı* decision,[17] where Beypazarı made a leniency application after Kınık, the Board again applied a 25 per cent reduction under the Settlement Regulation and a 30 per cent reduction under the former Leniency Regulation, amounting in total to a 55 per cent reduction from the administrative monetary fine. Thus, the monetary fines imposed on Beypazarı decreased again drastically from 21,885,323.28 Turkish lira to 9,848,395.48 Turkish lira.

A recent example of combined application of the Settlement and Leniency Regulation is the Board's *Güres Tavukçuluk Üretim Paz. v. Tic. AŞ* (*Güres*), *Güneş Kalıplı Basma Kutu Ambalaj San. v. Tic. AŞ* (*Güneş*) and *Yuva Viyol ve Ambalaj San v. Tic Ltd Şti* (*Yuva*) decisions. *Güres*, *Güneş* and *Yuva* were part of an egg cartoon cartel, which consisted of a total of six undertakings. In its *Güres* decision,[18] the Board applied a 25 per cent reduction under the Settlement Regulation and a 45 per cent reduction under the former Leniency Regulation, amounting in total to a 70 per cent reduction of the administrative monetary fine. Thus, the monetary fines imposed on Güres decreased drastically from 12,620,077.22 Turkish lira to 3,786,023.17 Turkish lira. In its *Güneş* decision,[19] the Board applied a 25 per cent reduction under the Settlement Regulation and a 30 per cent reduction under the former Leniency Regulation, amounting in total to a 55 per cent reduction of the administrative monetary fine. Thus, the monetary fines imposed on Güneş decreased from 2,260,006.43 Turkish lira to 1,017,002.89 Turkish lira. In its *Yuva* decision,[20] the Board applied a 25 per cent reduction under the Settlement Regulation and a 16.67 per cent reduction under the former Leniency Regulation, amounting in total to a 41.67 per cent reduction of the administrative monetary fine. Thus, the monetary fines imposed on Yuva decreased from 745,241.88 Turkish lira to 439,592.10 Turkish lira.

Additionally, the participation of an undertaking in cartel activities requires proof that there was such cartel activity or, in the case of multilateral discussions or cooperation, that the particular undertaking was a participant. In broadening its interpretation of

the Competition Law, and in particular the rationale as to the 'object or effect of which', the Board has established an extremely low standard of proof concerning cartel activity. The standard of proof is even lower for concerted practices; in practice, if parallel behaviour is established, a concerted practice might readily be inferred, and the undertakings concerned might be required to prove that the parallelism is not the result of a concerted practice. The Competition Law brings a 'presumption of concerted practice', which enables the Board to engage in an Article 4 enforcement if price changes in the market, the supply and demand equilibrium or fields of activity of enterprises bear a resemblance to those in markets where competition is obstructed, disrupted or restricted. Turkish antitrust precedents recognise that conscious parallelism is rebuttable evidence of forbidden behaviour and constitutes sufficient grounds to impose fines on the undertakings concerned. The burden of proof is very easily swapped, and it becomes incumbent upon the defendants to demonstrate that the parallelism in question is not based on concerted practice but has economic and rational reasons behind it.

'Day one' response

Article 15 of the Competition Law authorises the Board to conduct dawn raids. The Amendment Law introduced changes to Article 15 that expand the scope of the Board's authority during dawn raids and, indeed, match the recent practice of the case handlers.

Accordingly, the Board is entitled to:

1. examine and make copies of all information and documents in companies' physical records as well as those in electronic space and IT systems (including but not limited to any deleted items);
2. request written or verbal explanations on specific topics; and
3. conduct on-site investigations with regard to any asset of an undertaking.

The Guidelines on the Examination of Digital Data during On-Site Inspections adopted on 8 October 2020 enable the Authority to examine mobile devices (such as mobile phones and tablets), unless it has been determined that the devices are solely for the personal use of a given employee. Regardless, the Board is authorised to conduct a quick review of any portable electronic device to assess its intended purpose.

Refusal to grant the staff of the Authority access to business premises may lead to the imposition of a fixed fine of 0.5 per cent of the turnover generated in the financial year preceding the date of the fining decision (or, 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). The minimum fine for 2025 is 241,043 Turkish lira. A refusal may also lead to the imposition of a periodic daily fine rate of 0.05 per cent of the turnover generated in the financial year preceding the date of the fining decision (or, 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) for each day of the violation.

The Competition Law therefore gives considerable agency to the Authority regarding dawn raids. A judicial authorisation is obtained by the Board only if the subject undertaking

refuses to allow the dawn raid. While the specific wording of the Law allows verbal testimony to be compelled of employees, case handlers do allow a delay in giving an answer as long as this is quickly followed up by written correspondence. Therefore, in practice, employees can avoid providing answers on issues about which they are uncertain, provided that a written response is submitted within a mutually agreed timeline. Computer records are fully examined by the experts of the Authority, including, but not limited to, deleted items.

Officials conducting an on-site investigation must be in possession of a deed of authorisation from the Board. The deed of authorisation must specify the subject matter and purpose of the investigation. The inspectors are not entitled to exercise their investigative powers (copying records, recording statements by company staff, etc.) in relation to matters that do not fall within the scope of the investigation (which is written on the deed of authorisation). The Board may also request all information it deems necessary from all public institutions and organisations, undertakings and trade associations. Officials of these bodies, undertakings and trade associations are obliged to provide the necessary information within the period fixed by the Board. Failure to comply with a decision ordering the production of information may lead to the imposition of a turnover-based fine of 0.1 per cent of the turnover generated in the financial year preceding the date of the fining decision (or, 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). In cases where incorrect or incomplete information has been provided in response to a request for information, the same penalty may be imposed.

Private enforcement

A cartel matter is primarily adjudicated by the Board. Enforcement is also supplemented with private lawsuits. In private suits, cartel members are adjudicated before regular courts.

One of the most distinctive features of the Turkish competition law regime is that it provides for lawsuits for treble damages. Article 57 et seq. of the Competition Law entitles any person injured in their business or property by reason of anything forbidden by the antitrust laws to sue the violators for three times their damages plus litigation costs and attorney fees. Owing to a treble damages clause allowing litigants to obtain three times their loss as compensation, private antitrust litigations increasingly make their presence felt in the cartel enforcement arena. Most courts wait for the decision of the Authority, then build their own decision on that finding.

Turkish procedural law does not allow for class actions or procedures. Class certification requests would not be granted by Turkish courts. Antitrust-based private lawsuits are rare but increasing in practice.

Outlook and conclusions

According to the Authority's annual report for 2023, the Board finalised a total of 145 cases concerning competition law violations. Of these, 121 cases came under Article 4 of the Competition Law (anticompetitive agreements) and six cases concerned both Article 4 and Article 6 (abuse of dominant position) and 55 concerned horizontal agreements. Overall, the Authority recorded increased Article 4 and cartel enforcement under horizontal agreements assessments. The Board issued a total of 1,799,182,282 Turkish lira in monetary fines for Article 4 cases in 2023.

In respect of cartel enforcement activity, two separate investigations were initiated by the Board in May 2022 on the egg sector about the allegations of price fixing, sharing markets and restricting the quantity of supply. The Board, in its *Egg I* decision,[21] determined that 26 undertakings jointly set egg prices and shared the regions where eggs were sold. The Board highlighted that the agreement involved price fixing, market allocation and coordination of commercial policies in their dealings with supermarkets. In this context, the Board emphasised that initially representatives of 10 competing undertakings signed an agreement regarding price fixing and market allocation. Then, these undertakings, along with others, continued this agreement through communications via WhatsApp groups. Also, the Board found out that the undertakings consolidated the emails they sent to supermarkets, which contained their commercial terms, and concluded that the purpose of this act was to establish a common policy in their commercial dealings with the supermarkets. Furthermore, the Board highlighted that the undertakings established a control mechanism to monitor compliance with the agreement. The Board concluded the investigation for 14 undertakings though a settlement procedure while the remaining 12 did not opt for settlement. Furthermore, in its *Egg II* decision,[22] the Board determined that the Central Union of Egg Producers and 12 local unions violated Article 4 of the Competition Law through price fixing and restricting the supply of eggs. The Board highlighted that several meetings took place among the heads of egg producer unions, primarily through communications via WhatsApp. The results of these meetings were then communicated to the market through regional and nationwide WhatsApp groups comprised of undertakings engaged in egg production. The Board did not find any agreement or concerted practice among the undertakings. Instead, the Board concluded that the actions were initiated and led by union leaders and aimed at influencing the broader market. The Board evaluated that the behaviours of these undertakings and associations of undertakings fell within the scope of Article 4 of the Law No. 4054. Overall, as a result of these two investigations, a total of approximately 98 million Turkish lira in administrative monetary fines was imposed on the parties found to have violated the Competition Law.

In the *Fresh Yeast* decision[23] the Board conducted an investigation against three yeast producers, Lesaffre Turquie Mayacılık Üretim ve Ticaret AŞ (Lesaffre), Mauri Maya Sanayi AŞ (Mauri) and Pak Gıda Üretim ve Pazarlama AŞ, and 21 dealers. The Board determined that 14 of the investigated fresh yeast dealers had engaged in (1) price-fixing; (2) allocation of customers and regions; and (3) restriction of supply. The Board also found that Mauri had facilitated the implementation, coordination, continuity and control of the agreements on price-fixing and customer and region allocation between distributors. Accordingly, the Board imposed monetary fines of 35,446,535.28 Turkish lira in total on the relevant yeast producer and the dealers. The Board indicated that even if an undertaking is not directly a party to an agreement, undertakings which facilitate the implementation, coordination, continuity and control of the agreement in question may be deemed to be a party to

the anticompetitive agreement. Furthermore, Lesaffre submitted an application to benefit from the provision of the Leniency Regulation, and the Board accepted the undertakings' application and reduced the administrative monetary fine down to 35 per cent. Afterwards, during the course of the investigation Lesaffre also submitted an application for the settlement mechanism. The Board accepted Lesaffre's application and terminated the investigation for Lessafre.

Furthermore, the Board, in its *FMCG II* Decision,[24] determined that BİM Birleşik Mağazalar AŞ, CarrefourSA Carrefour Sabancı Ticaret Merkezi AŞ, Migros Ticaret AŞ, Şok Marketler Ticaret AŞ and Yeni Mağazacılık AŞ had contravened Article 4 of the Competition Law through agreements or concerted practices related to a hub-and-spoke cartel. This cartel was designed to establish the retail sale prices of various products offered by the mentioned retailers. It entailed the coordination of prices, price increases or both through indirect contacts among these undertakings, facilitated by common suppliers. The exchange of competitively sensitive information, including future prices, price increase dates, seasonal activities, and campaigns, occurred through these common suppliers. Furthermore, the undertakings intervened in prices and enforced price increases on retailers that had not yet raised their prices during a period of general market price increases, utilising suppliers to the detriment of customers. Strategies such as product-specific price reduction were employed to ensure compliance with collusion among undertakings in case competitor prices did not rise. Consequently, the Board decided that an administrative monetary fine should be imposed on these undertakings in accordance with Article 16 of the Competition Law. However, considering that an administrative fine had already been imposed on the relevant undertakings pursuant to the Board's*FMCG I* Decision, following the general legal principle *ne bis in idem*, the Board opted not to levy a new administrative monetary fine within the scope of the current investigation.

Recently, the Board has increased its scrutiny of labour markets. The Board concluded its investigation on whether 19 private schools operating in the Kocaeli province violated Article 4 of the Competition Law through non-poaching agreements and fixing employee salaries.[25] The Board imposed an administrative monetary fine of 591,347.22 Turkish lira on Arı İnovasyon ve Bilim Eğitim Hizmetleri AŞ whereas for the remaining 18 private schools, the investigation was concluded through settlement procedure. In its *French Highschool* decision,[26] the Board investigated whether French high schools in İstanbul jointly determined school registration fees and components of these fees, as well as the salaries of Turkish teachers. The Board imposed an administrative monetary fine of approximately 21 million Turkish lira on French High Schools in Istanbul for their practices in the labour market. The Board's healthcare sector decision[27] is another significant example of its enforcement activity: it investigated 29 undertakings and associations of undertakings and imposed monetary fines under three different violations. Considering price-fixing regarding freelance doctors and other services as a single violation, the Board concluded that six undertakings had established a pricing cartel in two different cities. On the other hand, the Board found that the practices of 16 undertakings aimed at limiting competition in the labour market by preventing personnel transfers and wage fixing constituted another single violation of article 4 of the Competition Law. Finally, the Board imposed administrative monetary fines on eight undertakings on the grounds of exchanging competitively sensitive information; seven undertakings were found to have been directly active in information exchange, while one was a facilitator.

Furthermore, the Authority published, on 3 December 2024, the Guidelines on Competition Infringements in Labour Markets (Guidelines on Labour Markets) which sheds light on the framework of competition law enforcement (including cartel enforcement) in labour markets. According to the Guidelines on Labour Markets, wage-fixing agreements are assessed within the same framework as price-fixing agreements; and no-poaching agreements are considered within the same framework as allocation of customers and providers. In addition to wage fixing agreements and no-poaching agreements, it provides explanations on information exchange and ancillary restraints. The Guidelines on Labour Markets also provides explanations in terms of application of Article 5 (concerning the exemption mechanism), Article 6 (concerning abuse of dominant position) and Article 7 (concerning mergers and acquisitions) of Law No. 4054 to labour markets.

In the *Uşak Driving Courses* decision,[28] the Board assessed whether undertakings providing training services to driver candidates in the Uşak province violated Article 4 of the Competition Law by fixing prices was concluded. The Board found that an agreement titled the Price Protocol was signed by the investigated undertakings regarding the joint determination of driving course fees. In addition, driving schools that charged below the agreed price were subjected to penalties, and compliance with the agreement was monitored through an auditing company. All the investigated undertakings submitted applications for the settlement mechanism and the investigation was terminated by the Board accordingly.

In the *Alanya Chamber of Electrical Engineers* Decision,[29] the Board assessed whether a group of electrical engineers who are members of the Chamber of Electrical Engineers, District Representation in Alanya has violated Article 4 of Law No. 4054 by way of fixing minimum prices. The Board concluded that the electrical engineers, either personally or via the companies they control have been engaged in a cartel. The investigation concluded by way of settlement involving all the parties to the Investigation.

Furthermore, in the *Sunny* decision,[30] the Board chose not to launch a full-fledged investigation following a recent preliminary investigation into allegations against Sunny Elektronik Sanayi v. Ticaret AŞ (Sunny). The allegations included claims that Sunny prohibited its resellers' online sales, engaged in resale price maintenance and facilitated indirect information exchange among its resellers, specifically CarrefourSA Carrefour Sabancı Ticaret Merkezi AŞ (CarrefourSA), Migros Ticaret AŞ (Migros) and Yeni Mağazacılık AŞ (A101). Notably, this decision was made despite the Authority's case handlers recommending the initiation of a full-fledged investigation. The Sunny decision carefully examined the findings, applying the lens of a hub-and-spoke infringement. The conclusion drawn from this analysis was that the specific case did not demonstrate any violation of such infringement. Consequently, the Board determined that there was no information or document indicating that Sunny, along with the resellers A101, CarrefourSA and Migros, was involved in a restrictive agreement that contravened Article 4 of the Competition Law. Additionally, in the *Eczacıbaşı* Decision,[31] the Board concluded its investigation against Eczacıbaşı Tüketim Ürünleri San ve Tic AŞ with a settlement. The investigation focused on the allegations that Eczacıbaşı's involvement in a hub-and-spoke cartel, coordinating price increases of downstream retailers and fixing resale prices. It was determined that Eczacıbaşı engaged in anticompetitive behavior as a party to a hub-and-spoke cartel. The discussions involved aspects such as determining shelf prices, coordinating timing for retailers to implement price hikes, organising simultaneous increases and sharing information about other retailers' behaviours to persuade them to

raise prices. The investigation concluded with a settlement text submitted by Eczacıbaşı, resulting in a maximum 25 per cent reduction in the administrative fine. Consequently, an administrative fine of 17,525,798.63 Turkish lira was imposed for the hub-and-spoke cartel violation and 8,762,899.32 Turkish lira for the resale price maintenance violation.

Recently, the Board launched investigations against Ayaz ve Ortakları Ltd Şti (Evdeeczane), Ege Teknoloji Kimya Mak San Tic Ltd Şti (Cosmed), Farmakozmetika Sağlık Ürünleri ve Kozmetik Tic Ltd Şti (Farmakozmetika) and SB Grup Kozmetik AŞ (Bakım Kutusu), all operating in the cosmetics and personal care sector, based on the allegations of participating in a hub-and-spoke cartel through the Buybox system. In its *Cosmed* decision,[32] the Board highlighted that the BuyBox system, used on online sales platforms, determines which seller's product will be promoted, and it is designed to give priority to the seller offering the product at the lowest price. The Board found that Cosmed designed and controlled the BuyBox systems, determining which products would be included in it. The Board also highlighted that (1) EvdeEczane, Farmakozmetika and Bakım Kutusu had access to competitively sensitive information about each other through the system; (2) the undertakings intervened in each other's prices through Cosmed; (3) these price interventions were predictable by the competing undertakings; and (4) Cosmed actively monitored the BuyBox system and intervened when prices deviated from the agreed levels. Based on these findings, the Board concluded that Cosmed acted as the central hub in a hub-and-spoke cartel, facilitating horizontal coordination between the other undertakings. The investigation concluded following settlement requests from all of the undertakings, and a maximum 25 per cent reduction in the administrative fine was applied to all of them.-[33]

Endnotes

1 Decision No. 24-53/1180-509, 2 December 2024. ^ Back to section

2 Decision No. 24-11/194-7829, February 2024. ^ Back to section

3 Decision No. 23-39/754-263, 17 August 2023. ^ Back to section

4 Decision No. 24-01/6-2, 4 January 2024. ^ Back to section

5 Decision No. 24-03/50-14,11 January 2024. ^ Back to section

6 Decision No. 24-05/63-21, 18 January 2024. ^ Back to section

7 Decision No. 23-43/820-29, 14 September 2023. ^ Back to section

8 Decision No. 22-55/863-357, 15 December 2022. ^ Back to section

9 Turkish Constitutional Court's decision (Application number 2019/40991, 23 April 2023). ^ Back to section

10 Leniency Regulation, Article 3. ^ Back to section

11 The Authority's *Elektrik Turbini*, Decision No. 04-43/538-133 dated 24 June 2004, *Ithal Komur*, Decision No. 06-55/712-202 dated 25 July 2006, *Ithal Komur II*, Decision No. 06-62/848-241 dated 11 September 2006, *Cam Ambalaj*, Decision No. 07-17/155-50 dated 28 February 2007 and *Condor* Flugdienst, Decision No. 11-54/1431-507 dated 27 October 2011. ^ Back to section

12 See, for example, *The suppliers of rail freight forwarding services for block trains and cargo train services*, No. 15-44/740-267 dated 16 December 2015, G-*üneş Ekspres/Condor*, No. 11-54/1431-507 dated 27 October 2011, *Imported Coal-*, No. 10-57/1141-430 dated 2 September 2010, *Refrigerator Compressors*, No. 09-31/668-156 dated 1 July 2009, *Sisecam/Yioula*, No. 07-17/155-50 dated 28 February 2007 and *Gas Insulated Switchgears*, No. 04-43/538-133 dated 24 June 2004. ^ Back to section

13 Note that the market-share thresholds were amended on 5 November 2021, by Communiqué No. 2021/4 on the Amendments to the Block Exemption Communiqué No. 2002/2 on Vertical Agreements. ^ Back to section

14 The definition refers to 'Undertakings operating in the same level of the market and being a party to the agreements and/or concerted practices listed in the Leniency Regulation'. ^ Back to section

15 The Leniency Regulation provides the following definition to elucidate the Authority's position regarding facilitators: 'Undertakings and associations of undertakings that mediate in the organization and/or maintenance of a cartel, facilitating such organization and/or maintenance through their activities, without conducting operations at the same level of the production or distribution chain as the parties to the cartels.' ^ Back to section

16 Decision No. 22-17/283-128, 14 April 2022. ^ Back to section

17 Decision No. 22-23/379-158, 18 May 2022. ^ Back to section

18 Decision No. 24-01/6-2, 4 January 2024. ^ Back to section

19 Decision No. 24-03/50-14, 11 January 2024. ^ Back to section

20 Decision No. 24-05/63-21, 18 January 2024. ^ Back to section

21 Decision No. 23-50/979-356, 26 October 2023. ^ Back to section

22 Decision No. 23-50/980-357, 26 October 2023. ^ Back to section

23 Decision No. 23-39/755-264, 17 August 2023. ^ Back to section

24 Decision No. 22-55/863-357, 15 December 2022. ^ Back to section

25 Decision No. 24-40/948-407, 3 October 2024. ^ Back to section

26 Decision No. 24-20/466-196, 24 April 2024. ^ Back to section

27 Decision No. 22-10/152-62, 24 February 2022. ^ Back to section

28 Decision No. 24-13/250-105, 14 March 2024. ^ Back to section

29 Decision No. 23-01/25-11, 5 January 2023. ^ Back to section

30 Decision No. 22-23/371-156, 18 May 2022. ^ Back to section

31 Decision No. 23-13/212-68, 9 March 2023. ^ Back to section

32 Decision No. 23-29/565-192, 5 July 2023. ^ Back to section

33 For *Bakım Kutusu*, Decision No. 23-45/853-304, 21 September 2023; *Evdeeczane-*, Decision No. 23-40/768-270, 31 August 2023; *Farmakozmetika*, Decision No. 23-29/563-190, 5 July 2023. ^ Back to section

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