

## Competition Authority Publishes Its 2023 Annual Report

The Turkish Competition Authority (“TCA”) published its annual report<sup>1</sup> (“**Report**”) covering its activities and relevant data from 2023 on 12 August 2024.

According to the Report, 370 files were finalized in 2023, 145 of which were related to competition violations<sup>2</sup>, eight to exemption/negative clearance applications, and 217 of which were related to merger/acquisition transactions. When compared to 2022, the number of decisions of the Competition Board (“**Board**”) regarding violation of competition was higher this year, however, a decrease was noted in terms of merger/acquisition transactions and exemption/negative clearance cases.

In 2022, a total of 78 investigations (54 investigations and 24 preliminary investigations) had been finalized, whereas in 2023, this number almost doubled reaching 145 (117 investigations and 28 preliminary investigations). Correspondingly, the number of on-site inspections conducted by the TCA almost doubled in 2023 compared to 2022.

In 2023, the food industry, machinery industry, and health services sectors were the most-frequently examined sectors, accounting for 75% of the competition violation files evaluated. Regarding the preliminary investigations (28 cases) and investigations (117 cases) conducted under Articles 4 and/or 6 of the Law No. 4054 on the Protection of Competition (“**Competition Law**”), 69 of the 145 cases were examined *ex officio*. It was determined that 68 of the *ex officio* examinations were related to violations of Article 4 and one was related to a violation of Article 6 of the Law. In 2023, the food industry was the sector with the highest amount of fines amounting to nearly TRY 2 billion, which were imposed on undertakings for competition violations. The sectoral distribution reveals that the food industry is followed by the machinery industry and health services as the sectors on the Board’s radar.

Among the 117 investigation files concluded in 2023, no penalty was imposed in 12 of them, but 28 files were settled through commitment and 68 files through settlement procedures. Considering these statistics, the undertakings seem to be actively using the commitment and settlement mechanisms embodied in the secondary legislation<sup>3</sup> that entered into force after the amendment to the Competition Law in 2020. Among the eight exemption/negative clearance applications evaluated by the Board in 2023, only two resulted in negative clearance decisions. In four of the other six exemption applications, the agreements were granted individual exemption. Of the remaining two, one application received a conditional exemption and the other application

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<sup>1</sup> <https://www.rekabet.gov.tr/Dosya/rk-yillik-rapor-2023-20240812161953915.pdf>

<sup>2</sup> Out of 145 cases, 121 cases are related to agreements restricting competition under Article 4 and 18 cases are related to abuse of dominant position under Article 6, and 6 cases are related to the conduct under both Article 4 and Article 6.

<sup>3</sup> Regulation On The Settlement Procedure Applicable In Investigations On Agreements, Concerted Practices And Decisions Restricting Competition And Abuses Of Dominant Position and Communiqué No. 2021/2 On The Commitments To Be Offered In Preliminary Inquiries And Investigations Concerning Agreements, Concerted Practices And Decisions Restricting Competition, And Abuse Of Dominant Position

concluded with an evaluation for group exemption. The distribution of exemption/negative clearance files by sector further shows that most applications concluded were from the automotive and vehicles sector.

The merger/acquisition transactions fell mostly in the information technologies and platform services, chemicals and mining, health services, automotive and vehicles, logistics, warehousing and postal, food industry, infrastructure services, machinery industry, construction and banking, capital markets, and finance and insurance services sectors. Of the 217 transactions, 184 were unconditionally authorized and three transactions were conditionally authorized. Additionally, 30 transactions were considered out of scope or not subject to authorization.

In its Report, the TCA also highlighted the most prominent decisions of 2023. There were 17 decisions regarding competition infringements, seven decisions regarding exemption/negative clearance, and three decisions regarding merger/acquisition transactions.

Furthermore, the introduction of the Report emphasizes that 2023 was an extremely important year in terms of labor markets, reflecting the TCA's recent focus on labor markets. In the labor-related investigation concluded in 2023, no-poaching agreements were defined as cartels.

Concerning the legislative framework, the Report noted that in addition to the updated Leniency Regulation<sup>4</sup> published in 2023, there are ongoing efforts related to the Draft Directive on Procedures and Principles for On-site Inspections.

Lastly, the Annual Report emphasized competition advocacy activities as well. In this context, the Board conducted sector reviews for certain markets to identify competition concerns and proactive solutions to ensure competitive functioning. Among the ongoing sector reviews initiated by the TCA in 2023 are "Online Advertising," "Pharmaceuticals," "Fuel Oil," "Regular Container Transportation and Container Port Services," "Automotive," "Mobile Ecosystem," "Earthquake Zone," and "Red Meat" sectors.

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<sup>4</sup> Regulation on Active Cooperation for Detecting Cartels