



2022 ANNUAL REPORT



ANNUAL REPORT 2022

COMPETITION AUTHORITY

Üniversiteler Mahallesi 1597. Cadde No: 9

Bilkent Çankaya 06800 / ANKARA

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FOREWORD BY THE CHAIRMAN	6
1. GENERAL INFORMATION	16
1.1. Mission and Vision	16
1.2. The Importance of the Competition Authority for the Economy of the Country	17
1.3. Work Principles	20
1.4. Duties, Powers and Responsibilities	21
1.5. Information about the Authority	22
2. PURPOSES AND PRIORITIES	26
2.1. Purposes and Objectives	26
2.2. Fundamental Policies and Priorities	27
3. ANNUAL ACTIVITIES	30
3.1. Competition Infringements	30
3.1.1 Examples of Decisions Related to Competition Infringements	35
3.2. Exemption/Negative Clearance	47
3.2.1 Examples from Negative Clearance/Exemption Decisions	49
3.3. Mergers and Acquisitions	53
3.3.1. Examples from Decisions Related to Mergers and Acquisitions	56
3.4. Statistical Data for the Last Five Years	61
3.5. Training and Internship Activities	71
3.6. Activities of the Legal Advisor's Office	74
3.7. Regulatory Activities	76
3.7.1. Regulations That Took Effect in 2022	76
3.7.2. Ongoing Regulation Work	76
3.8. Activities of the Economic Analysis and Research Department	76
3.8.1. Activities Related to Examinations	76
3.8.2. Impact Analysis Report	77
3.8.3. 2022 Mergers and Acquisitions Overview Report	77
3.8.4. Training for the Professional Staff	78
3.9. Activities in the Field of Information Technologies	78
3.9.1. E-Government Application Portal	78
3.9.2. IT Security	79
3.9.3. Activities for Providing IT Infrastructure to Authority Events	80
3.10. International Relations Activities	81
3.10.1. European Union (EU)	81
3.10.2. Multilateral Relations	81
3.10.3. Bilateral Relations	84
3.11. Activities within the Framework of Competition Advocacy and Institutional Relations	85
3.11.1. Sector Inquiries	85
3.11.2 Symposiums, Conferences, Panels and Meetings Organized	86

3.11.3 Other Activities.....	87
3.12. Publications.....	88
3.12.1. Competition Journal.....	88
3.13. Opinions Rendered to Public Institutions and Organizations.....	88
3.14. Strategic Plan Performance Monitoring and Assessment Activities.....	88
3.15. Thursday Conferences.....	89
4. GENERAL ASSESSMENT.....	100
5. EVALUATION OF ORGANIZATIONAL CAPABILITY AND CAPACITY:	
Internal and External Analysis.....	104
5.1. Strengths.....	104
5.2. Improvable Aspects.....	104
5.3. Opportunities.....	104
5.4. Challenges.....	104
6. RECOMMENDATIONS AND PRECAUTIONS.....	106
 FIGURES	
Figure 1 : The Contribution of Competition Authorities to Economic Growth.....	18
Figure 2 : Organization Chart.....	23
 TABLES	
Table 1 : Purposes and Objectives	26
Table 2 : Finalized Files	61
Table 3 : Files Concluded under Articles 4 and 6 of the Act.....	62
Table 4 : Vertical and Horizontal Agreements under Article 4 of the Act.....	63
Table 5 : Negative Clearance Files Finalized.....	63
Table 6 : Finalized Exemption Files.....	64
Table 7 : Merger, Acquisition, Joint Venture and Privatization Files Finalized.....	65
Table 8 : Outcomes of the Concluded Merger, Acquisition and Privatization Files.....	66
Table 9 : Distribution of the Files Examined Ex Officio	67
Table 10 : Fines (TL).....	68
Table 11 : Fines Imposed under Articles 4 and 6 of the Act (TL).....	69
Table 12 : Fines Imposed in Files Examining Horizontal and Vertical Agreements (TL).....	70
Table 13 : Training and Internship Activities.....	72
Table 14 : List of Actions Brought For and Against the Authority between 1997 and 2022.....	74
Table 15 : List of Actions Brought Against the Authority Decisions in 2022.....	75
Table 16 : Distribution of Actions Finalized between 2018 and 2022 According to Outcome.....	75
Table 17 : E-Government Application Portal Statistics.....	78
Table 18 : Sector Inquiries Launched/Ongoing in 2022.....	86
Table 19 : Opinions Rendered to Public Institutions and Organizations.....	88
Table 20 : Thursday Conferences.....	89



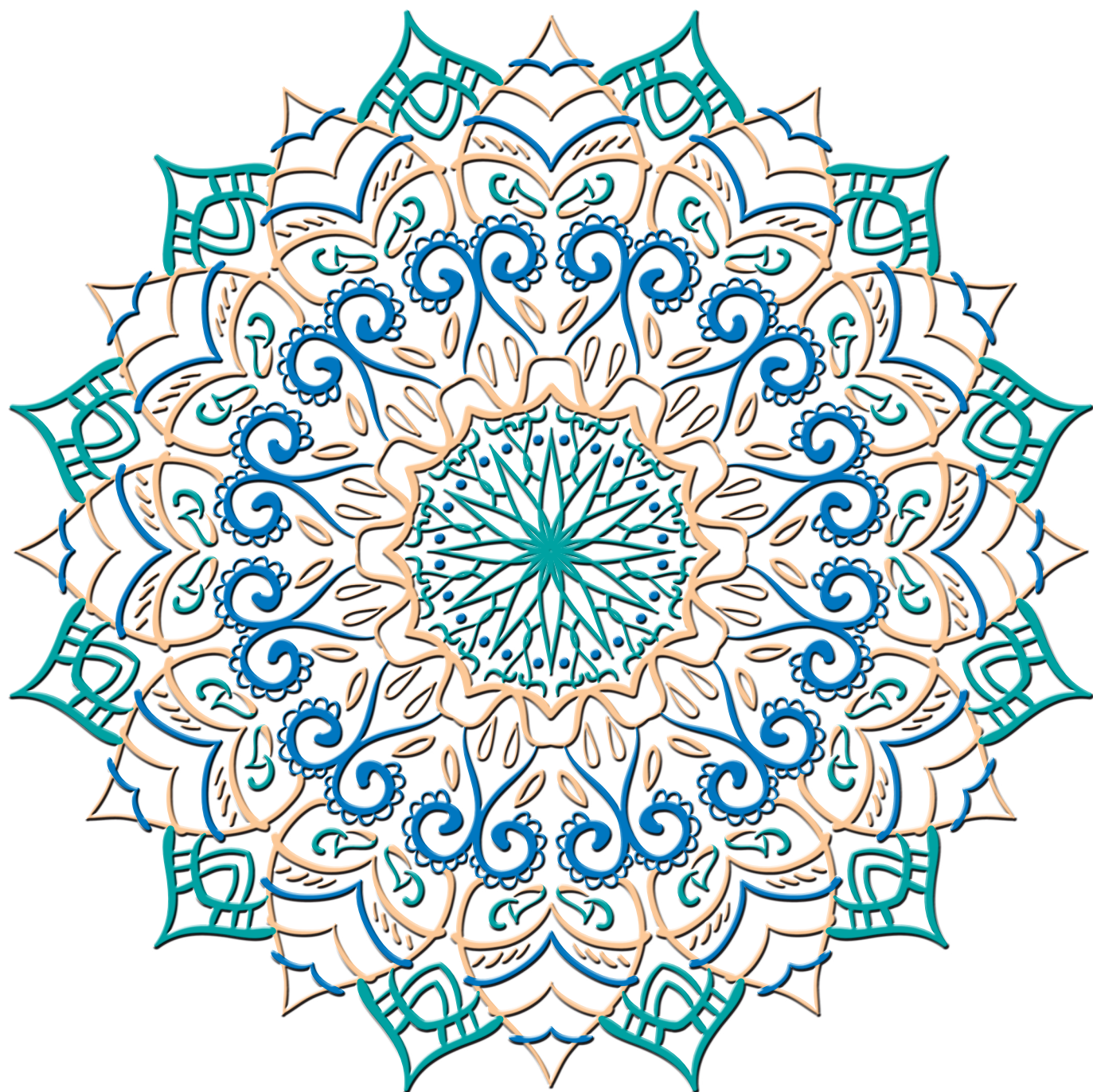
Providing a sound and welfare-increasing framework to each and every market and thus to economic order, competition law has been continuously active in also 2022 throughout the world. Undoubtedly, this is because the market system per se is a “tool” rather than an “objective”. Market order is the primary tool for increasing social welfare and ensuring innovation and improvement that will carry societies to higher levels continually. It is the efficiency of legal rules naturally and historically that prevent the market from deviating from its vital function. Especially since the financial crisis in 2008, it is undeniable that the precautionary principle is important and the market cannot realize its aims by itself. On the other hand, technological advancement has revealed unusual market norms -both negative and positive. Competition law has to be applied more strictly in such environment so that markets will meet social expectations in reality not in discourse and players will not disrupt the healthy competitive environment in terms of both structure and behavior.

Looking back to last year, first we see that atypical violations have increased beside the traditional violations; legal purview has expanded and deepened qualitatively with new business models. Having never been restricted to formal borders historically, competition law has used its tools skillfully for the sake of efficient functioning of the market, formulated new tools when necessary and applied them smoothly. Another notable development is the control of market failures, which are important for our citizens and their budgets in daily life. As we always emphasize, it is one of our priorities to solve competition failures in a sustainable manner by taking actual and potential

structural sanctions in addition to administrative sanctions. Our competition advocacy mission is the backbone of the competition law regime as a mechanism with low social cost and high added value. Accordingly, our institutional activities in markets with market failures such as sector inquiries, contributions to legislation work, actively participating in international norm creating process are going on intensively parallel to the economic dynamism. In each section of our Report, we present the details of our activities and efforts under enforcement, advocacy, and institutional reforms categories separately to your appreciation.

The year 2023 is a threshold for our Republic to enter a new progress phase; therefore, it gives us further responsibility and a serious and honorable mission like our other institutions. Our agenda for the next year is that market system functions in accordance with virtue and ethical principles which our society deserves, the winner is the undertaking which is the most determinant literally, regardless of its type, no abuse is left outside the law, barriers to entry are eliminated in reality, not seemingly and of course institutional improvements that will contribute to the mission of increasing this welfare are realized. In this context, wishing that there will be no sector left outside economic and legal improvements and progress next year, I would like to present our Annual Report for 2022.

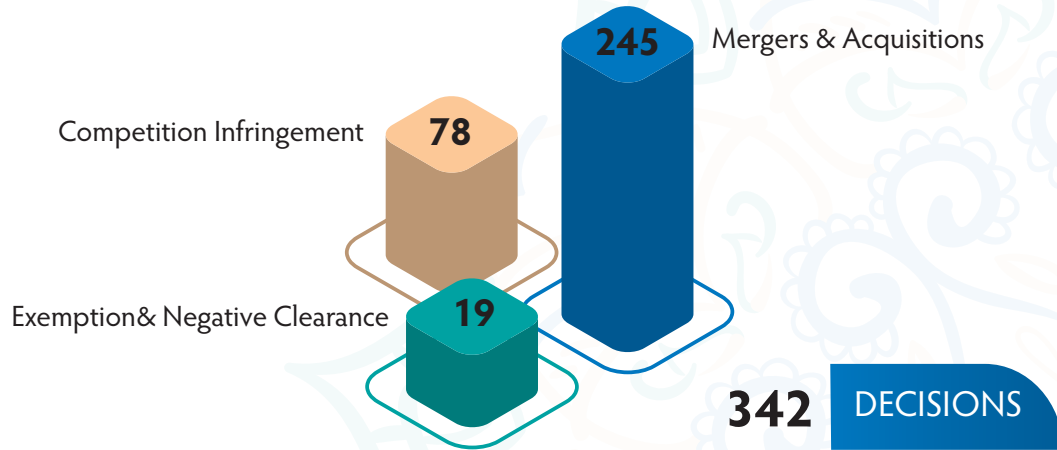
Birol KÜLE
Chairman of the Competition Board



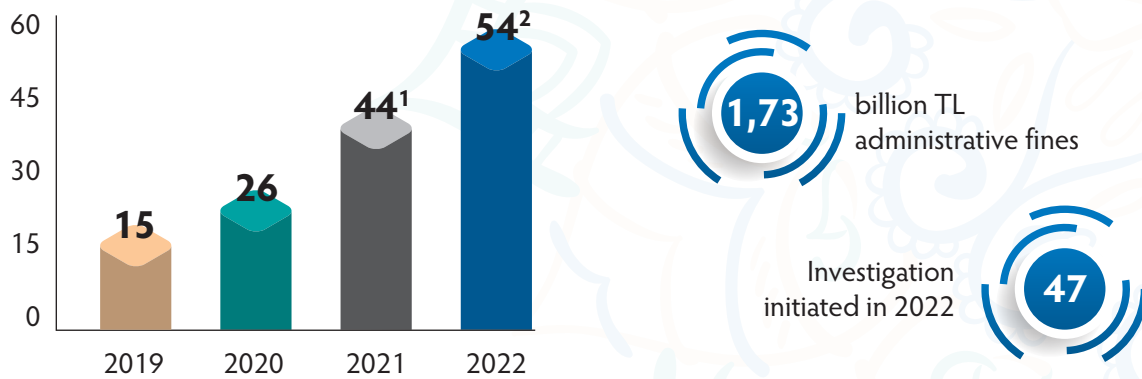


2022 IN NUMBERS

Files Concluded



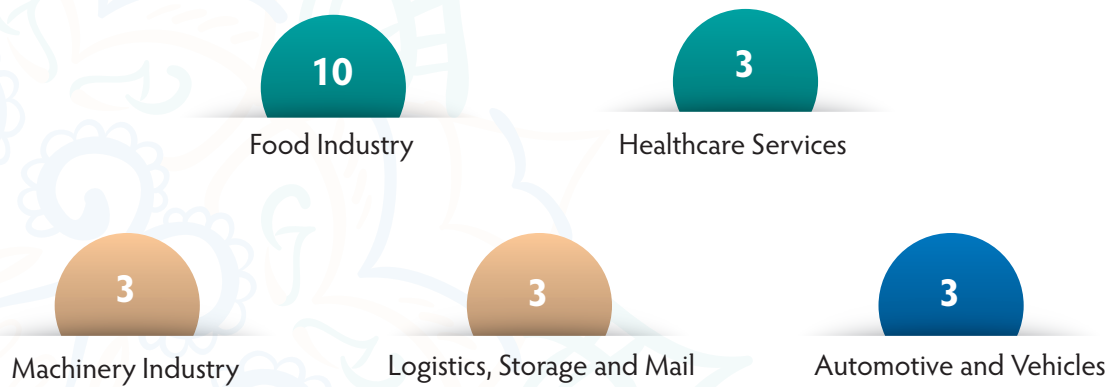
Investigations



¹ Investigation process was completed with respect to 40 files in 2021. In four files, the investigation was terminated for certain undertakings as a result of the settlement procedure but it is still ongoing for the other parties to the investigation.

² Investigation process was completed with respect to 29 files in 2022. In 25 files, the investigation was terminated for certain undertakings as a result of settlement or commitment procedure but it is still ongoing for the other parties to the investigation.

Breakdown of the Investigations Concluded According to Sectors (First five sectors)



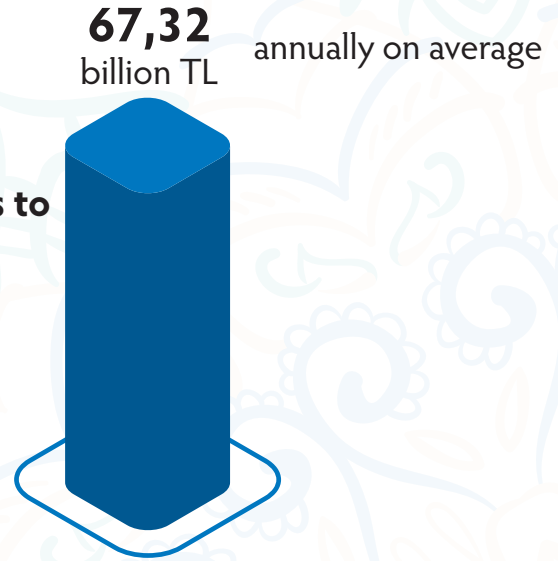
Since 2020, the number of investigations has **increased by 2 fold**
whereas the number of on-site inspections has **increased by ~ 65%**



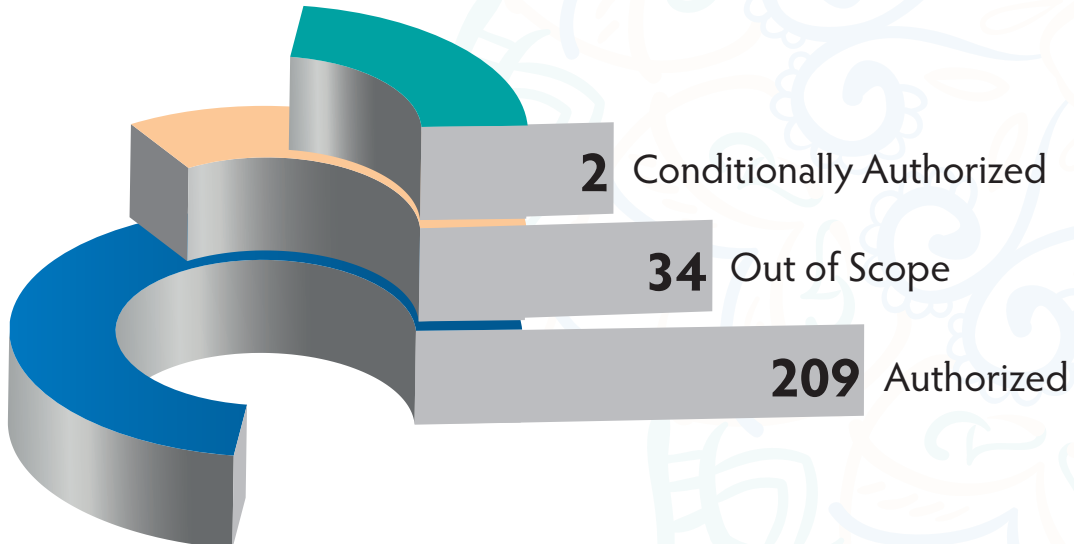
"Effective on-site inspection" + "increase in human resources capacity"

Year	The number of Investigations Completed	The Number of Preliminary Inquiries	The Number of On-site Inspection Assignments
2020	26	36	502
2021	44	29	653
2022	54	24	831

Estimated Contribution of the Decisions to
To Consumer Welfare
in 2021-2022



Mergers Acquisitions



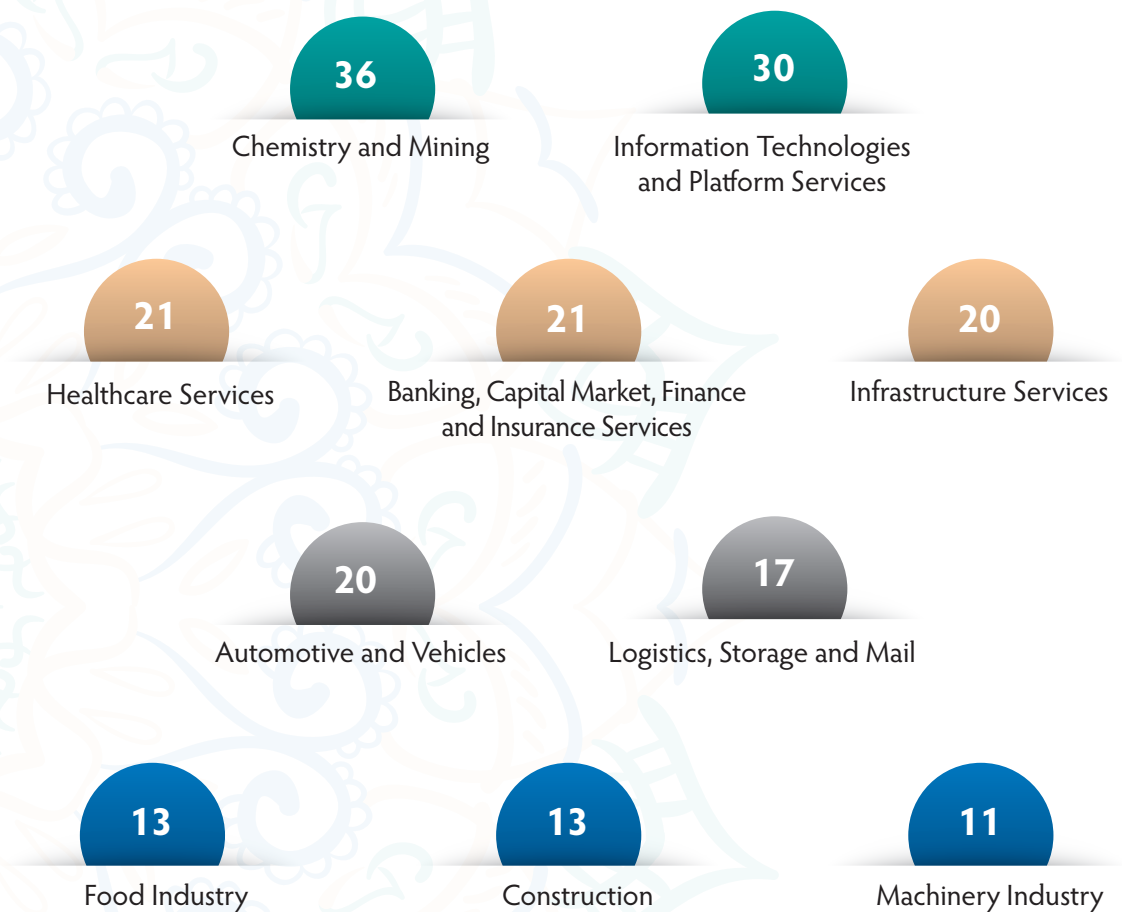
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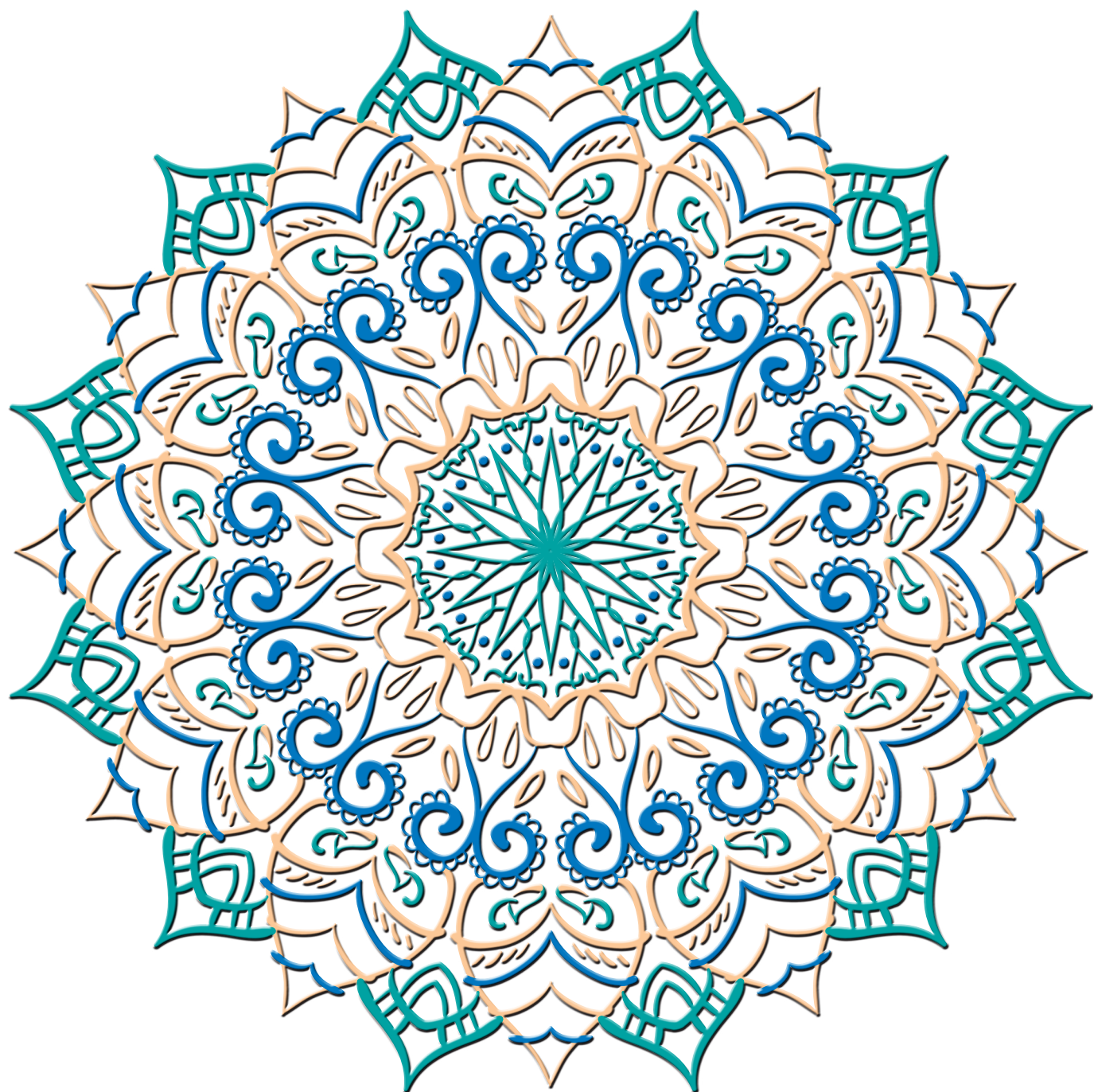
**NOTIFIED
TRANSACTIONS**

Sectors

Breakdown of Merger and Acquisition Decisions According to Sectors

(First ten sectors)







GENERAL INFORMATION

1.GENERAL INFORMATION

Article 167 of the Constitution of the Republic of Türkiye places a duty and responsibility on the state to take “measures to ensure and promote the sound, orderly functioning of the money, credit, capital, goods and services markets”, “prevent the formation, in practice or by agreement, of monopolies and cartels in the markets.” Depending on this Constitutional basis, the Act no 4054 was put into effect on 13.12.1994 to serve firstly the growth of consumer welfare and public welfare by establishing, protecting and improving competitive market order based on economic efficiency. The Competition Authority started to work on 05.11.1997 after completing its organization within the framework of the Act.

It is necessary to review competition law legislation constantly taking into account the dynamism of economic life, knowledge and experience gained in enforcement as well as the developments in the world and especially in the European Union. Within this framework, amendments have been made to the Act no 4054 in 2003, 2004, 2005, 2006, 2008, 2011, 2012, 2018 and 2020 within 27 years as of its enactment. In addition, the Competition Board (the Board) has issued many secondary regulations related to the implementation of the Act and amended existing secondary regulations.

1.1. Mission and Vision

The mission of the Authority is to prevent monopolization and cartelization, increase consumer welfare, contribute to the well functioning of market mechanism, contribute to the improvement of international competition power and ensure that investment environment functions in a healthy way by decreasing entry barriers.

In line with this mission, the following objectives are set:

- Monitoring, regulating and supervising markets to prevent agreements restricting competition, abuse of dominant position as well as mergers and acquisitions that will significantly decrease competition,
- Promoting competition culture and making necessary disposals to ensure that public decisions and actions are made according to competitive understanding,
- Making researches related to competition law, economy and policy, developing policies and contributing to the development of macroeconomic policies with respect to competition law.

The Authority is responsible for carrying out activities related to regulation, supervision, competition advocacy and policy making in order to achieve these objectives.

The future vision of the Authority is to be an institution which supports sustainable growth and development; takes innovation, variety, productivity and quality to the highest level; promotes widespread competition culture; establishes a well functioning competitive environment; makes intellectual, economic and administrative contributions and is effective in international platforms.

1.2. The Importance of the Competition Authority for the Economy of the Country

Competition has a strategic and central position with respect to the effective functioning of market economy. By contributing to the prevention of cartelization and monopolization and to reduction of barriers to entry, competition authorities ensure that market mechanism functions in a healthy way, competition authorities play a vital role in sustainable growth, healthy functioning of investment environment and maximizing consumer welfare as well as increasing efficiency and international competitive power. Moreover, the role of competition authorities in mitigating negative effects created by unexpected supply and demand shocks is undeniable. For instance, during Covid-19 period, financial policies implemented by governments to increase total demand led to more efficient results in economies with competitive product markets. Competition authorities' advocacy role is important in minimizing the negative effects of bail out packages on market structure.

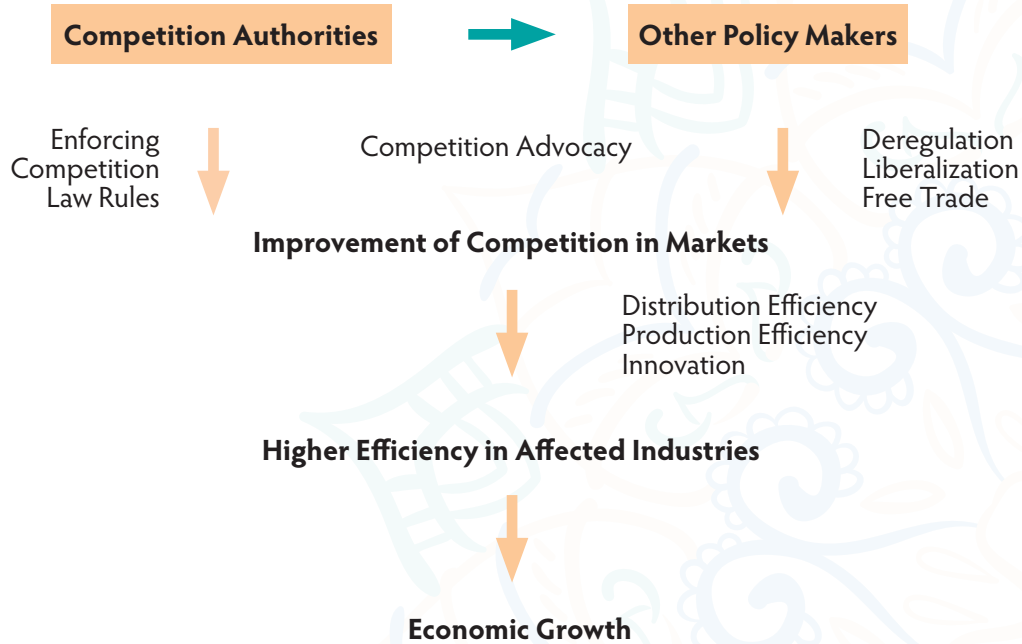
Economic Growth

Competition authorities contribute to the development of competition in markets by means of their fundamental duty, which is enforcing competition law rules and eliminating barriers in front of liberal market and economic freedom through competition advocacy. In this way, those authorities ensure that markets serve for consumer welfare by preventing cartelization and monopolization. The priority of the firms in markets under competition law's shield is to meet consumer demand more efficiently at lower prices and higher quality. In such environment, R&D, innovation and innovative products are important parameters of the race between firms. As a result, market efficiency is higher in markets. In turn, higher efficiency contributes to national competitive power, economic growth and thus public welfare.

Competition Authorities take an important role also by means of complementing other economic policies with their function of supervising markets. Indeed, markets free from dominating cartels and monopolies are essential to ensure that decisions of the government related to monetary and fiscal policies will produce efficient results and guarantee that the national economy grows in a healthy way. Figure 1 summarizes the contribution of competition authorities to economic growth.³

³ OECD (2014), "Factsheet on How Competition Policy Effects Micro-economic Outcomes", p. 2.

Figure 1: The Contribution of Competition Authorities to Economic Growth



Indirect Contribution to Price Stability

Competition authorities also contribute to price stability indirectly by means of improving competition in markets. Those contributions may be categorized into two: First, protecting the competition in markets helps preventing the distortion of price stability by ensuring lower prices in medium and long term. Preventing cartels and similar structures as well as dominant undertakings from distorting competition in the market and controlling mergers and acquisitions that will lead to monopoly power can be considered in this category. Second category is the effects the outcomes of which can be observed in a short time with the implementation of competition law rules directly. For instance, competition authorities indirectly contribute to price stability by detecting and terminating prohibited practices such as increasing prices artificially through agreements between competitors, hindering new entries and forestalling lower prices by means of resale price maintenance.

Increase in Foreign Investment

One of the factors that investors take into account is the existence of a competition authority which applies competition law rules effectively because this assures investors that public institutions in the country in question provide all undertakings in the market with equal opportunities and do not favor national undertakings, which indirectly contributes to foreign investment in the country.

Indirect Contribution to Fair Income Distribution

It is accepted that anticompetitive practices have negative effects on income distribution and markets where competition rules are not functioning efficiently may lead to inequalities in allocation of welfare. Anticompetitive practices affect many people; however, those who benefit from a cartel or a monopoly are generally a small group. It is the low-income section of the society who is affected by higher prices and lower quality products caused by the distortion of competition. Thus, prevention of anticompetitive practices contributes indirectly to fairer income distribution especially through hindering unfair welfare transfers.

Increase in International Competition Power

As a result of economic and technological developments in the last century, production facilities has improved, communication and transport vehicles have advanced and become cheaper; consequently, trade activities have gone beyond national borders. Therefore, undertakings compete with not only undertakings within the borders of a country but also with those who carry out activities in international markets. In line with this, international competition has gained importance for undertakings and countries. It is vital to have an efficient and sound competitive market to promote international competitiveness. Competitive markets motivate undertakings to work efficiently and productively; thus, increase their' potential to compete with international rivals and contribute to the country's international competitive power.

1.3. Work Principles

The Authority takes into account certain fundamental values while fulfilling its duties according to its founding purposes and pays attention to reflect those to its work and transactions.



1.4. Duties, Powers and Responsibilities

The purpose of the Act no 4054 is to prevent agreements, decisions and practices preventing, distorting or restricting competition in markets for goods and services, and the abuse of dominance by the undertakings dominant in the market, and to ensure the protection of competition by performing the necessary regulations and supervisions to this end. It is possible to categorize the provisions laid down in the Act regarding this purpose under three main areas:

- Provisions related to agreements, concerted practices and decisions preventing, distorting or restricting competition between undertakings that operate in markets for goods and services within the borders of the Republic of Türkiye or affect those markets,
- Provisions related to abuse of dominance by undertakings dominant in the market,
- Provisions related to any legal transaction or conduct in the nature of a merger or an acquisition to create a dominant position or strengthen an existing dominant position which would result in significant lessening of competition.

The abovementioned provisions constitute the basic framework of the Act no 4054. There is neither discrimination between public enterprises and private enterprises in terms of the implementation of the Act nor distinction among sectors in the Act. Thus, anticompetitive conduct by all undertakings and associations of undertakings in any market for goods and services fall under the scope of the Act.

According to article 20 of the Act no 4054, the Authority was founded in order to ensure the formation and development of markets for goods and services in a free and sound competitive environment, to observe the implementation of this Act and to fulfill the duties assigned to it by the Act. Within this framework, the main duty of the Authority is to prevent threats to the competitive process in markets for goods and services by using its powers granted by the Act.

Another duty of the Authority, competition advocacy, is very important in terms of recovering market failures especially stemming from certain regulations, actions or transactions by other public institutions. The Act no 4054 gives the power and duty to the Board to opine, directly or upon the request of the Ministry of Trade, concerning the amendments to be made to the legislation with regard to the competition law, to monitor legislations, practices, policies and measures of other countries, concerning agreements and decisions limiting competition. Contributing to the formation and sound implementation of the competition policy, which consists of competition law legislation and other relevant legislation, throughout the country forms a significant part of the Board.

Competition advocacy is not limited to the duties listed in the Act no 4054 and has a broader perspective, taking into account the basic philosophy underlying the Act. In this sense, another function of the Authority is to spread competition culture to different layers of the society mainly to other public institutions. Since it is not possible to implement the vision on a healthy ground unless other public institutions are conscious about the benefits of a competitive market structure.

1.5. Information about the Authority

The Authority has public legal personality, administrative and financial autonomy and is independent in fulfilling its duties. **No organ, authority and person may give commands and orders to influence the final decision of the Authority.** The organization of the Authority consists of the Competition Board, the Presidency and Service Units.

The Board is composed of a total of 7 members assigned by the President, one being the Chairman and the other being the Deputy Chairman.

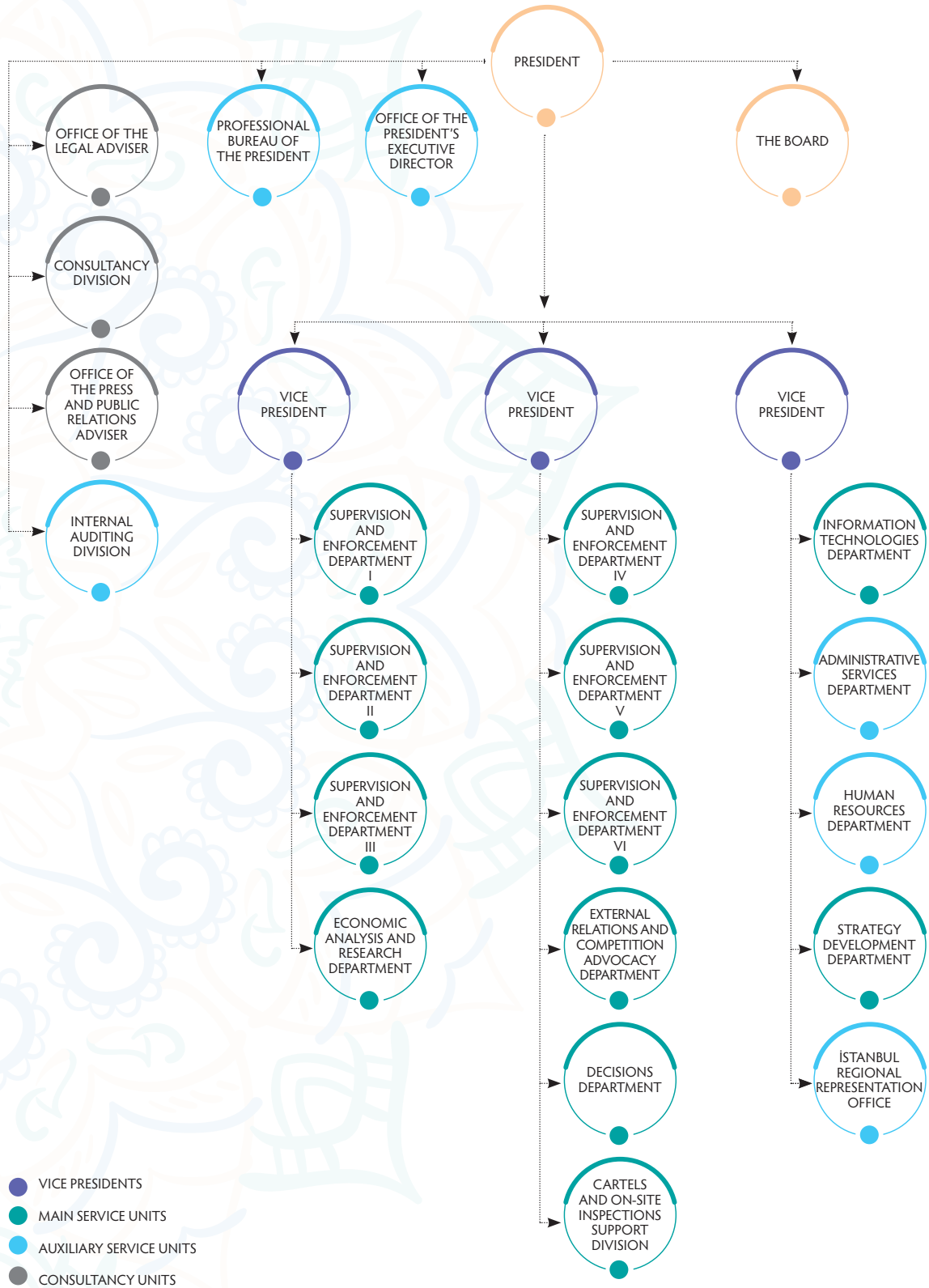
The Presidency consists of the Chairman, the Deputy Chairman and Vice Presidents of the Authority.

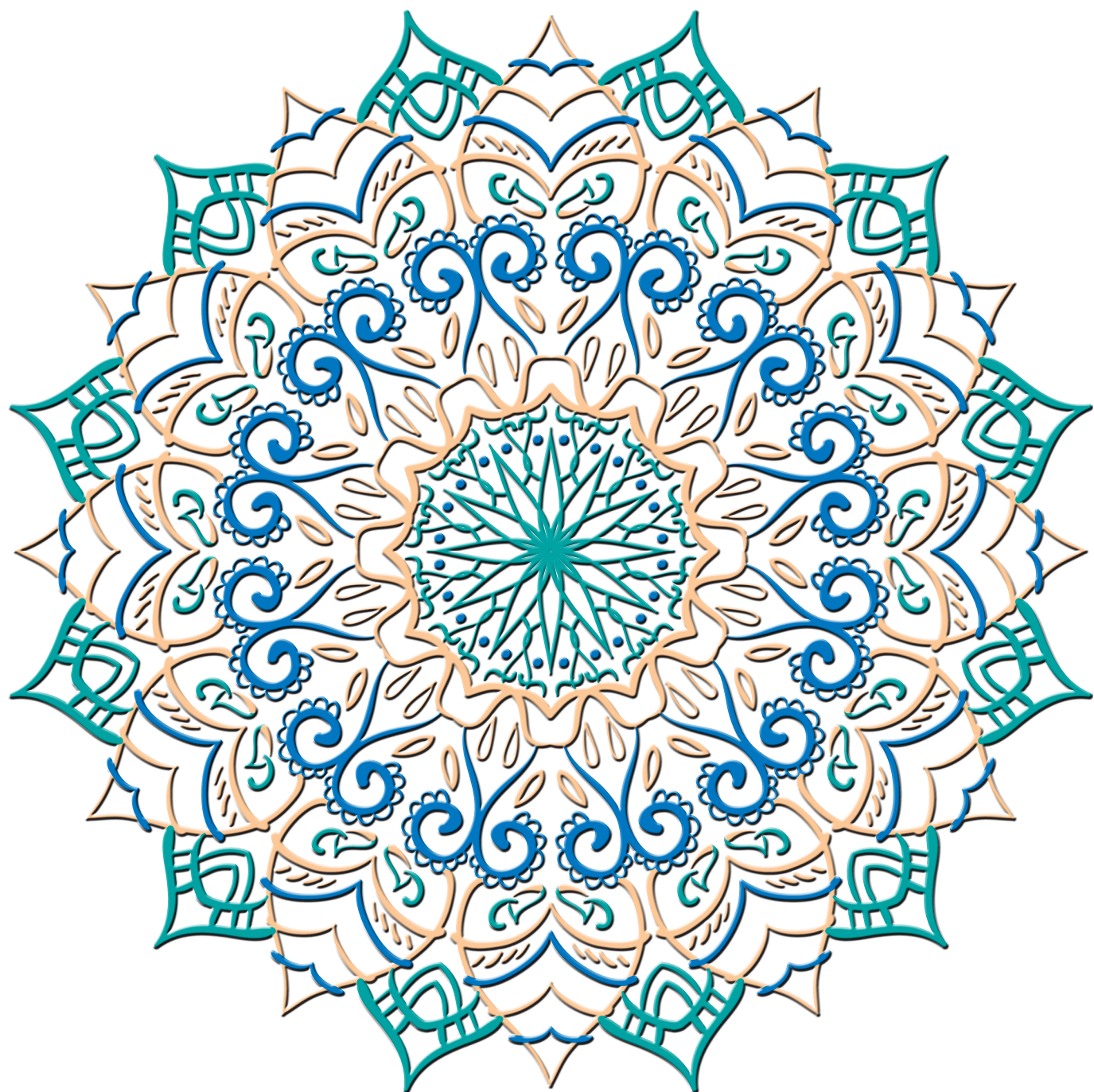
The Chairman of the Board is the highest supervisor of the Authority and is responsible for general management and representation. This responsibility covers arrangement, supervision, evaluation and announcement to public when necessary, of the Authority's work in a general framework.

Service units consist of main service units which, are organized as departments, consultancy units and auxiliary service units.

The headquarters of the Authority is in Ankara and there is a regional representative office in İstanbul. The property, owned by the Authority, located in the address "Üniversiteler Mahallesi 1597. Cadde No:9 Bilkent/Çankaya ANKARA" is used as the headquarters. İstanbul Regional Representative Office's address is "Prime İstanbul Yenibosna Merkez Mah. 1. Asena Sk. No:15 E Blok Kat: 12 Bahçelievler/ İSTANBUL"

Figure 2: Organization Chart







PURPOSES AND PRIORITIES

2. PURPOSES AND PRIORITIES

2.1. Purposes and Objectives

The main purpose of the Act no 4054 is to prevent agreements, decisions and practices preventing, distorting or restricting competition in markets for goods and services, and the abuse of dominance by the undertakings dominant in the market, and to ensure the protection of competition by performing the necessary regulations and supervisions to this end.

In order to reach those purposes identified by the Act, the Authority carries out regulation and supervision activities under the scope of competition law enforcement; competition advocacy activities and policy making activities.

The Authority prepared the Strategic Plan related to 2019-2023 period in 2019. The Strategic Plan includes the purposes related to those activities and objectives to reach those purposes. The table below shows those purposes and objectives according to each field of activity.

Table 1: Purposes and Objectives

Competition Law Enforcement	
Purpose 1	To ensure that competition law is applied effectively
Purpose 1.1	To take initiatives to amend the Act for necessary legal powers and to develop the secondary legislation
Purpose 1.2	To develop new approaches to conclude monitoring and enforcement processes more quickly and efficiently
Purpose 1.3	To make methods of collecting evidence, especially on-site inspections, more efficient
Competition Advocacy	
Purpose 2	To ensure that the Authority and competition law are recognized and internalized at individual, institutional and sectoral levels and this awareness is reflected in shareholders' behavior
Purpose 2.1	To help institutions which determine or affect economic policies develop a competitive perspective
Purpose 2.2	To increase the recognition level among shareholders
Policy Making	
Purpose 3	To detect markets with failures and/or high potential for infringement and to develop competition law policies with respect to those markets
Purpose 3.1	To develop more proactive approaches for enforcement
Purpose 3.2	To focus on increasing consumer welfare
Purpose 4	To be an active competition authority in international arena
Purpose 4.1	To develop international relationships in the area of competition law
Purpose 5	To produce and spread knowledge about competition law and policy and transfer this knowledge into benefits
Purpose 5.1	To make academic and semi-academic studies related to competition law and policy
Institutional Capacity	
Purpose 6	To manage human resources efficiently and improve their productivity
Purpose 6.1	To increase the quality and quantity of training programs for the personnel
Purpose 6.2	To ensure efficient communication and coordination among the personnel
Purpose 7	To increase institutional performance
Purpose 7.1	To improve the competency of the professional personnel
Purpose 7.2	To increase capacity with respect to technological development
Purpose 7.3	To systematize and use professional knowledge more effectively

2.2. Fundamental Policies and Priorities

In the Strategic Plan for 2019-2023 period, the Authority sets certain policies and priorities to make competition law and policy in our country more effective, dynamic and efficient, taking into account also those observations.

The priorities of the Authority can be summarized as follows:

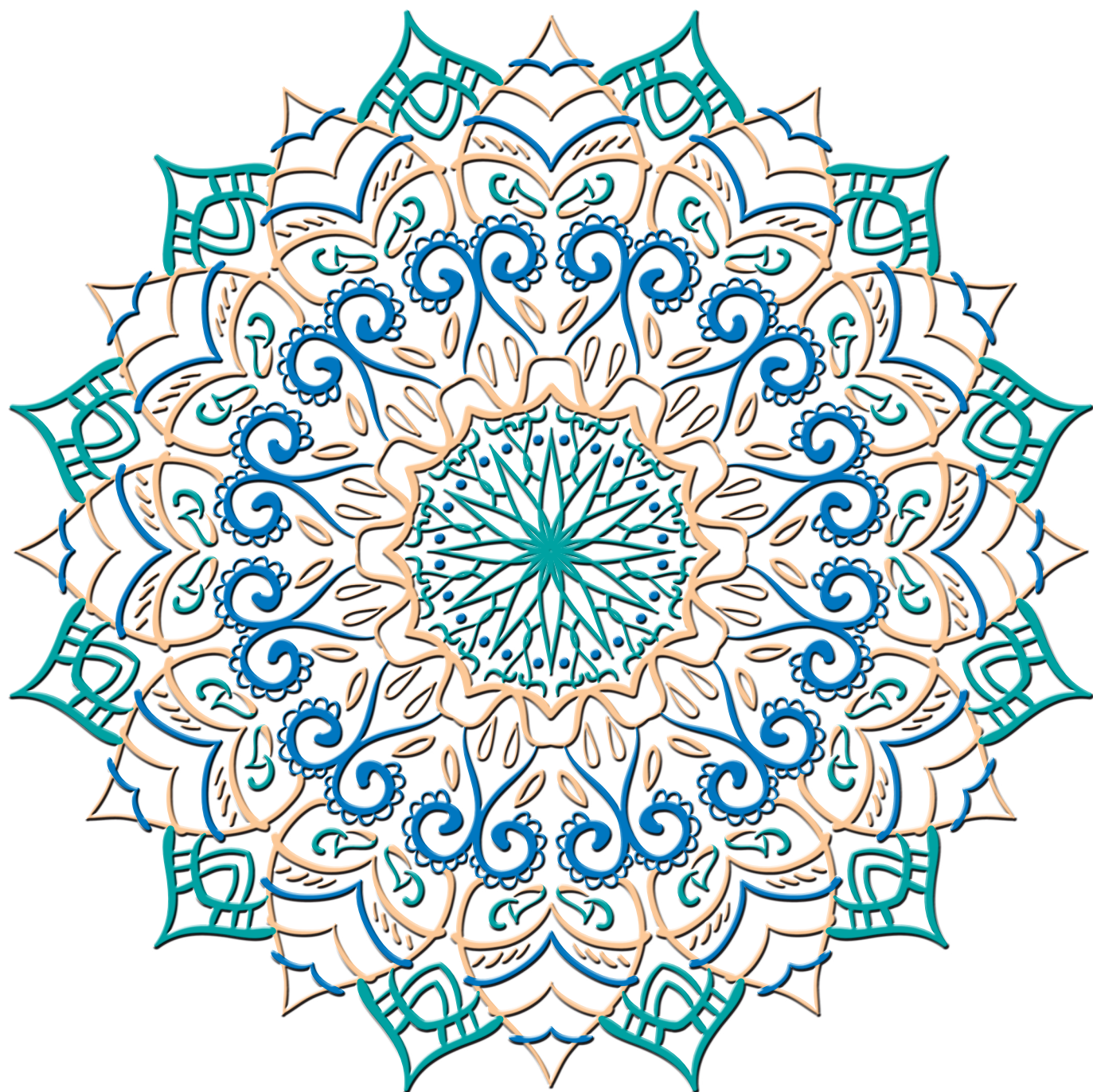
- Taking initiatives to make amendments to the Act no 4054 for enforcing competition law more effectively and to make amendments to the secondary legislation in this sense where necessary,⁴
- Developing evidence collecting mechanisms in order to fight against competition infringements more effectively,⁵
- Monitoring closely the markets changing with digitalization in order to develop efficient competition law policies and enforcement with respect to those,⁶
- Carrying out activities to develop competition awareness in public institutions and authorities and competition culture in all segments of the society,
- Developing international relations in the area of competition law,
- Increasing institutional capacity and performance.

Having completed its 25 years of activity in 2022, the Authority has made important contributions to the development of competition law and policy enforcement in Türkiye.

⁴ The Act on the amendments to the Act no 4054 on the Protection of Competition", which entered into force after it was published in the Official Gazette dated 24.06.2020 and numbered 31165, made significant amendments.

⁵ The Guidelines on the Examination of Digital Data during On-Site Inspections dated 08.10.2020 and numbered 20-45/617 was adopted.

⁶ Decisions taken by the Competition Board and sector inquiries have created an important accumulation.





ANNUAL ACTIVITIES

3. ANNUAL ACTIVITIES

3.1. Competition Infringements

Article 4 of the Act no 4054 prohibits agreements and concerted practices between undertakings, and decisions of associations of undertakings which have as their object or effect or likely effect the restriction of competition. With respect to the implementation of this article, it is not necessary that agreements or decisions are put into practice. Transactions that do not create effects on the market can be considered under the scope of article 4 regarding their objectives and possible effects.

This article concerns practices with more than one party. Decisions of associations of undertakings reflect the willpowers and interests of their members, so they are deemed that they are created by more than one undertaking and evaluated according to the same article. In addition to the agreements and decisions, concerted practices are under the scope of article 4. Concerted practices can be defined as direct or indirect relations that enable coordination or practical cooperation instead of undertakings' independent conduct. If the presumption of concerted practice laid down in the third paragraph of that article is valid, the burden of proof that such conduct does not exist is on the undertakings.

It is possible to group anticompetitive agreements into two categories: horizontal and vertical. While horizontal agreements cover agreements which undertakings at the same level of the market, vertical agreements are those to which undertakings at different levels of the market such as provider and buyer are party.

In competition law, it is generally accepted that horizontal agreements that restrict competition among brands have more negative effects on competition than vertical agreements in the same brand.

Article 6 prohibits the abuse by one or more undertakings of their dominant position. It should be noted that being in a dominant position or transforming to a dominant position is not prohibited by article 6. What is prohibited is abuse of dominance.

It is important to determine whether an undertaking holds a dominant position with respect to the implementation of this article. At this stage, market share, barriers to entry, vertical integrity, powers of other undertakings in the market and some other factors are taken into account. Besides, whether the undertaking acts independently of its competitors and customers is questioned.

The Act lists some examples of practices restrictive of competition in article 4 and abuse of dominance cases in article 6. However, actions or practices that might fall under the scope of the Act are not limited to the examples given in both articles.

Concerning the update made regularly every year on the lower threshold for fines, for 2022, the Communiqué no 2022/1 on the Increase of the Lower Threshold for Administrative Fines Specified

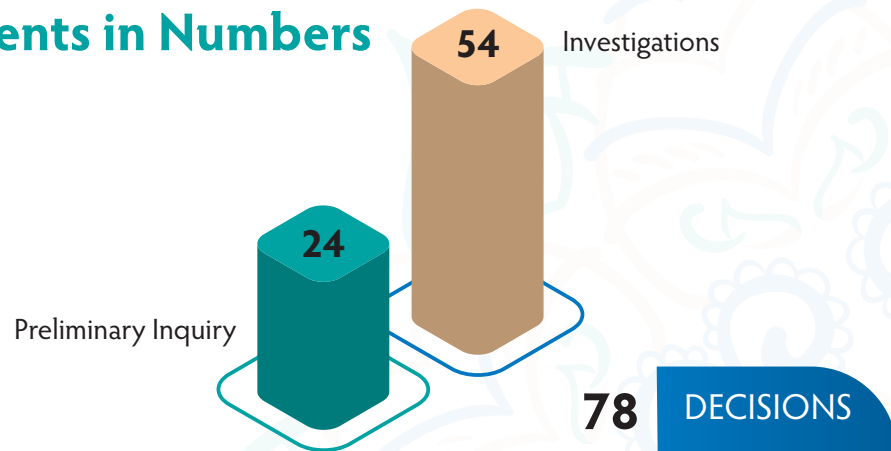
in Paragraph 1, Article 16 of the Act No 4054 on the Protection of Competition, to be Valid until 31/12/2022 was published and brought into force.

In addition, the regulations that have made amendments to the secondary legislations in 2022 are given below:

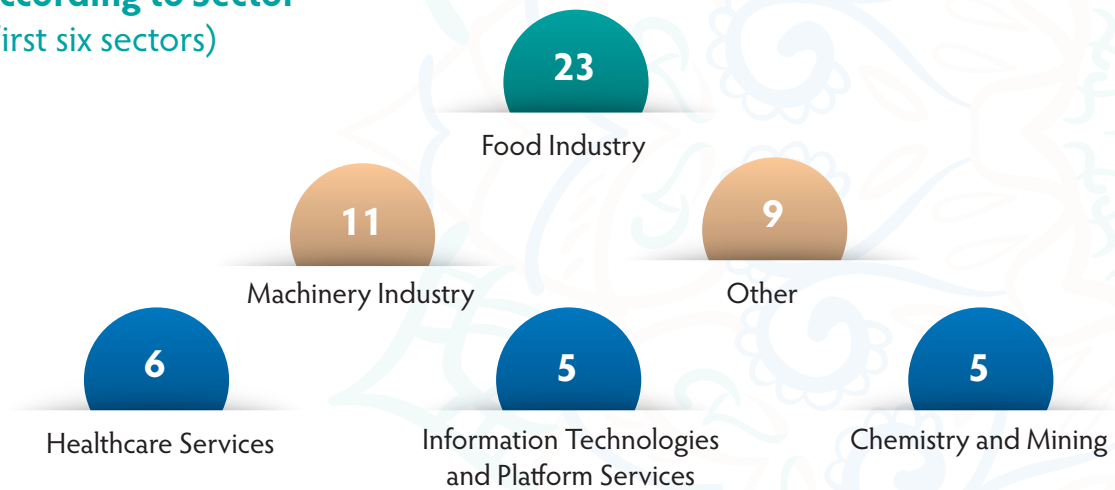
1. The Communiqué (Communiqué no 2022/2) on the amendments to the Communiqué Concerning the Mergers and Acquisitions Calling for the Authorization of the Competition Board (Communiqué no 2010/4).
2. The Communiqué no 2022/3 on the amendments to the Communiqué no 2013/3 on the Procedures And Principles To Be Pursued In Pre-Notifications And Authorization Applications To Be Filed With The Competition Authority In Order For Acquisitions Via Privatization To Become Legally Valid
3. The Regulation on the amendments to the Regulation On The Settlement Procedure Applicable In Investigations On Agreements, Concerted Practices And Decisions Restricting Competition And Abuse Of Dominant Position
4. The Regulation on the Amendments to the Regulation on Fines to Apply in Cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position (15.08.2022, OG 31867)
5. Guidelines on the Assessment of Horizontal Mergers and Acquisitions
6. Guidelines on the Assessment of Non-Horizontal Mergers and Acquisitions

The chart on the following page shows the breakdown of decisions taken by the Board in 2022 about undertakings' practices that fall under the scope of the prohibition laid down in article 4 and/or article 6 according to their types and sectors. It also shows the investigations still in progress as of the end of 2022.

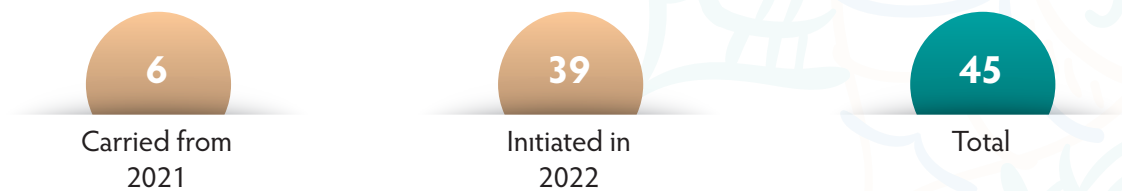
Competition Infringements in Numbers



Breakdown of the Decisions According to Sector (First six sectors)



Ongoing Investigations (As of the end of 2022)



Since 2020, the number of investigations has **increased by 2 fold**
whereas the number of on-site inspections has **increased by ~ 65%**



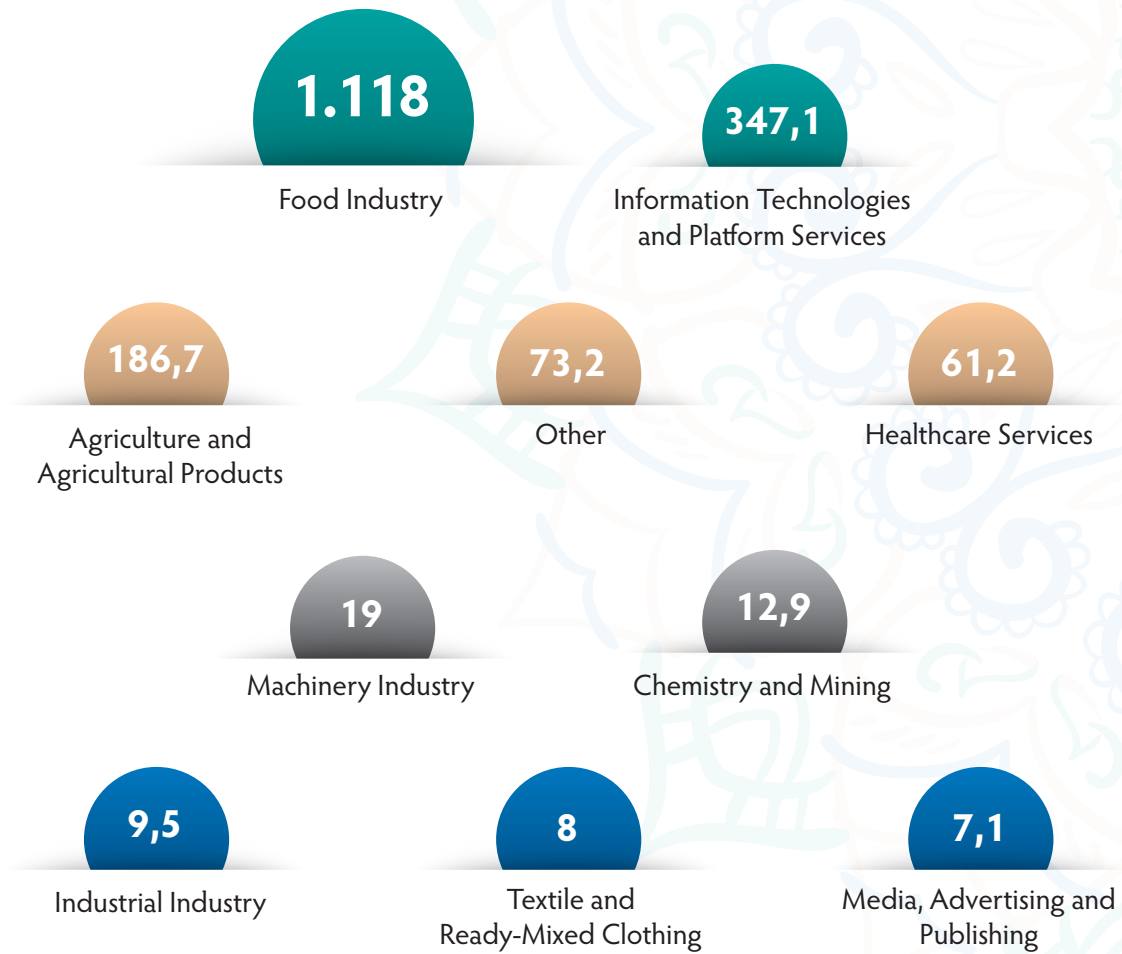
"Effective on-site inspection" + "increase in human resources capacity"

Year	The number of Investigations Completed	The Number of Preliminary Inquiries	The Number of On-site Inspection Assignments
2020	26	36	502
2021	44	29	653
2022	54	24	831

In 2022, out of 78 decisions taken concerning competition infringements, 24 decisions were taken as a result of preliminary inquiries and 54 decisions were taken as a result of investigations. In 2022, 59 of the decisions concerning competition infringements are related to six sectors shown in the chart and 19 are related to other eight sectors. The said eight sectors are automotive and vehicles, agriculture and agricultural products, logistics, storage and mail, textile and ready-made clothing, construction, capital market, finance and insurance services, culture, art, entertainment, leisure, sports, games of chance and education, media, advertising and publishing sectors. The decisions concerning the first six sectors that have been the subject of decisions the most constitute 76% of the total competition infringement decisions in 2022. In 2022, the number of investigations initiated upon the claims that article 4 and/or 6 is violated is 38. When two investigations carried from 2021 and 39 investigations initiated in 2022 are included, the total number of ongoing investigations as of the end of 2022 is 45. While the number of investigations finalized in 2020 was 26, this number was 44 in 2021 and 54 in 2022. While the number of on-site inspection assignments in 2020 was 502, the number of assignments was 653 in 2021 and 831 in 2022. There is 27% increase in the number of on-site inspections in 2022 compared to 2021. Considering the increase in the number of investigations together with the increase in the number of on-site inspections, it can be said that the effectiveness of on-site inspections and preliminary inquiry processes have improved equally. Capacity increase in the Authority's IT and human resources as well as efficient use of commitment and settlement procedures are important factors in the said improvement in efficiency.

Considering the outcomes of 78 files regarding competition infringement decisions, claims were rejected in 20 cases out of 24 preliminary inquiry files. Out of 54 investigation files, five files were concluded with commitments whereas 34 files were finalized with settlement. Administrative fines were imposed in 15 sectors according to article 16(3) of the Act. The chart below shows the breakdown of the administrative fines given in the investigations concluded in 2022 according to sectors. According to the chart, the prominent sectors are as follows: Food industry with 1,118 million TL administrative fines, IT and platform services with 347.1 million TL administrative fines, and agriculture and agricultural products with 186.7 million TL administrative fines. The administrative fines imposed in those three sectors correspond to 79% of the total administrative fines given substantially with respect to competition infringements in 2022.

Breakdown of administrative fines imposed to competition infringements in investigations concluded in 2022 according to sectors (Million TL) (first ten sectors)



3.1.1 Examples of Decisions Related to Competition Infringements

Toyipa (Toyzz Shop) Preliminary Inquiry Decision

(Board Decision dated 10.02.2022 and numbered 22-08/116-46)



The preliminary inquiry looks into the claim that Toyipa Mağazacılık Ticaret A.Ş. (TOYPA, brand name Toyzz Shop) violated article 6 of the Act no 4054 by means of predatory pricing.

The relevant market is defined as “toys retail market” but the geographic market was not defined as it would not affect the assessment.

Afterwards, as a result of the evaluations made to determine whether the undertaking is dominant, it is found that it is highly unlikely for any undertaking, including TOYPA to be dominant in that market due to its structure with a lot of players operating through different channels. Moreover, considering TOYPA’s competitive position in terms of HASBRO, LEGO, MATTEL and GP brand toys about which TOYPA is alleged to apply predatory pricing, it is found that the concentration level is low, there are a lot of financially strong competitors in the market to exert competitive pressure against TOYPA, there are alternative sources for consumers; therefore TOYPA is not dominant in an alternative market to be defined.

In addition, the preliminary inquiry examines whether TOYPA applies predatory pricing in terms of HASBRO, LEGO, MATTEL and GP brand toys and whether its pricing behavior causes anticompetitive foreclosure effects. Although it is expected that ARMAĞAN would be pushed out of the market on the basis of shopping malls as a result of TOYPA’s pricing behavior in shopping malls where TOYPA and ARMAĞAN both operate, it is seen that the number of shopping malls where ARMAĞAN carries out activities with TOYPA has increased. There has not been any loss in market share of ARMAĞAN to indicate that its activities were complicated in the market for the sale of HASBRO, LEGO, MATTEL and GP brand toys; on the contrary, it is found that the share of revenues gained from the said four brands in its total revenues has increased. Therefore, it is concluded that there has not been an anticompetitive market foreclosure against competitors as a result of TOYPA’s pricing behavior.

Consequently, it has been decided that TOYPA has not violated article 4 of the Act no 4054 by means of its pricing behavior during the period examined.

Private Healthcare Institutions Investigation Decision
(Board Decision dated 24.02.2022 and numbered 22-10/152-62)



Upon the complaints submitted to the Competition Authority that private hospitals in Samsun fixed operation room service fees charged from freelance practitioners and prevented personnel transfers with a gentleman's agreement, a preliminary inquiry was initiated with the Board decision dated 28.07.2020 and numbered 20-36/501-M. As a result of the preliminary inquiry, the Competition Board considered the findings

sufficient and initiated an investigation, with its decision numbered 20-46/624-M, about six private hospitals and Medicana Hastane İşletmeciliği A.Ş. and MLP Sağlık Hizm. A.Ş., which are the main undertakings of Medicana Samsun Özel Sağlık Hizmetleri A.Ş. and Samsun Medikal Grup Özel Sağlık Hizmetleri A.Ş. During the investigation, documents were found raising suspicion that the alleged practices might have also been taken place in Balıkesir and Bursa. Thus, a preliminary inquiry was initiated with the Board decision dated 26.11.2020 and numbered 20-51/711-M. As a result of the said preliminary inquiry, the Board decision dated 07.01.2021 and numbered 21- 01/20-M was taken that an investigation would be initiated about Bursa Association of Private Healthcare Institutions and Private Hospitals Platform Association and the investigation would be combined with the investigation conducted upon the claims in Samsun. Although it was stated in the file that the relevant market could be defined as *"the market for operation room services offered to freelance practitioners"*, *"labor supply/labor market in healthcare services"*, *"complementary health insurance"*, neither a precise relevant product market nor a geographic market was defined. As a result of the investigation,

- Concerning the undertakings operating in Samsun, it was decided that by means of price fixing, four of those and by means of restricting competition in the labor market, two of those violated article 4 of the Act no 4054 and the said undertakings shall be imposed administrative fines according to article 16 of the Act no 4054.
- Concerning the undertakings operating in Bursa, by means of price fixing, two undertakings; by means of restricting competition in labor markets, fourteen undertakings, and by means of exchanging competitively sensitive information, seven undertakings together with Bursa Association of Private Healthcare Institutions violated article 4 of the Act no 4054. Thus, those undertakings shall be imposed administrative fines.
- There was no information or documents that seven undertakings and Private Hospitals Platform Association violated the Act no 4054; therefore, it was not necessary to impose administrative fines within the framework of Article 16 of the Act no 4054.

New and Second Hand Vehicle Distributors Investigation Decision (Board Decision dated 03.03.2022 and numbered 22-11/170-69)



An investigation was conducted about 24 undertakings to determine whether distributors and car rental companies operating in the markets for selling new and used vehicles violated article 4 of the Act no 4054.

Within the scope of the investigation, supply restriction, stockpiling and price fixing claims were examined in the new vehicle market whereas the claims that car dealers bought new cars and sold those at excessive prices; the effect of supply problem to providing vehicles to fleet

companies as well as sales and pricing movements in the second hand vehicles market were analyzed.

In terms of the new vehicle sales market, the following conclusions were made: There is no evidence showing that distributors fixed prices or restricted supply together. The statements in the documents obtained during on-site inspections are kinds of public information that can be accessed through methods such as market research and secret shopper. Taking into account the structure and features of the new vehicle sales market, it is not possible to conclude that undertakings have exchanged competitively sensitive information.

In terms of the second-hand vehicle sales market, the following conclusions were made: The sale of vehicles by authorized dealers to unauthorized resellers such as car dealers could not be considered a violation under the scope of the Act no 4054. There is no evidence showing that car rental companies agreed with their competitors, bought new vehicles and sold them in the second hand vehicle market at high prices. It is not possible to prove that undertakings have been engaged in an agreement restrictive of competition by object.

As a result, it was decided that since no information and document could be found showing that the parties to the investigation violated Article 4 of the Act no 4054, it was not necessary to impose administrative fines on the undertakings.

Port Akdeniz Investigation Decision (Board Decision dated 03.03.2022 and numbered 22-11/169-68)



The investigation examined whether Ortadoğu Antalya Liman İşletmeleri A.Ş. (Port Akdeniz), Medlog Lojistik Gemicilik Turizm A.Ş. (MEDLOG) and MSC Gemi Acenteliği A.Ş.(MSC) violated article 4 of the Act no 4054 by means of market allocation and whether PORT AKDENİZ violated article 6 of the Act no 4054 by means of excluding firms offering container filling services out of the market with its unilateral conduct.

The relevant markets were defined as “container filling services market”, “container lashing services market”, “VGM measurement services market” and “load storage services market” whereas the relevant geographic market was defined as “West Mediterranean Region”.

As a result of the analysis and observations made, since no information or document was found showing that the said undertakings violated article 4 of the Act no 4054, it was concluded that MSC and MEDLOG and Port Akdeniz did not violate Article 4 of the Act no 4054.

In the assessment made in relation to article 6 of the Act no 4054, analyses were made about the position of Port Akdeniz and its competitors in the market, barriers to entry and expansion and buyer power. As a result, it was found that Port Akdeniz had significant market power and was dominant in container filling market.

Afterwards, price-cost analysis, correlation analysis and market foreclosure analysis were made on the effects of Port Akdeniz’s rebates in the relevant market. Within the framework of all analyses and assessments, it was concluded that Port Akdeniz implemented de facto exclusivity by means of its rebates in container filling market and thus violated article 6 of the Act no 4054.

Hicri Ercili Preliminary Inquiry Decision (Board Decision dated 24.03.2022 and numbered 22-14/234-102)



The preliminary inquiry looked into the claim that Hicri Ercili Deniz Nakliyat Kimyevi Maddeler San. ve Tic. Ltd. Şti. (Hicri Ercili) and Ak-Kim Kimya Sanayi ve Ticaret A.Ş.⁷ (Ak-kim) reflected the administrative fine imposed by the Board decision dated 19.11.2020 and numbered 20-50/693-304 to the administrations, in the form of excessive increases to the prices of chemicals used in water treatment process.

It was concluded that iron chloride and polyaluminium chloride are not substitutes for aluminum sulfate. The relevant market was defined as “aluminum sulfate market” considering previous Board decisions.

According to the dominant position assessment, the following observations were made: The undertaking in question is the single alternative for institutions that make large purchases such as İstanbul Water and Sewerage Administration and Ankara Water and Sewerage Administration (ASKİ). Although there are not legal or actual barriers to aluminum sulfate market, there were not new entries during the last five years as a producer. The second biggest producer left the market

⁷ It was found that Ak-Kim had no activities in aluminum sulfate market. Hicri Ercili acquired aluminum sulfate facilities in 2020.

in 2020. There are few players in the market and Hicri Ercili participated a large part of tenders made by municipalities alone, so a new entry that is large enough to affect Hicri Ercili's position is not probable. Considering the share of aluminum sulfate sales to ASKİ -the biggest buyer- in total shares, it is not possible to talk about a countervailing buyer power. Since aluminum sulfate purchases cannot be made in foreign currency due to the legal requirements, import is not an alternative for municipalities. As a result, it was concluded that Hicri Ercili is dominant.

To determine whether Hicri Ercili's aluminum sulfate prices in the tenders in 2021 were excessive within the scope of article 6 of the Act no 4054, price-cost data in the aluminum sulfate procurements made by municipalities where Hicri Ercili participated in 2021 were analyzed. It was concluded that it was a rational approach to make bids in tenders by making forecasts about possible risks in the market or costs (potential cost increases and likely negative parameters in the market) not no face losses taking into account the following facts: The tenders made by municipalities generally cover a long time as a tender term. In line with the specifications, municipalities make purchases at a fixed price in Turkish lira. Municipalities can increase work and period unilaterally. There are risks stemming from the dependency on import for raw materials and energy costs during the contract terms.

Accordingly, it was decided that the claims that Hicri Ercili made high price bids in municipalities' aluminum sulfate tenders and abused its dominant position under the scope of article 6 of the Act no 4054 were not true and it was not necessary to initiate an investigation.

Baymak Preliminary Inquiry Decision

(Board Decision dated 24.03.2022 and numbered 22-14/221-95)



A preliminary inquiry was made in order to determine whether Baymak Makine San. ve Tic. A.Ş. (Baymak) violated article 4 of the Act no 4054 with its practices aimed to prevent its authorized services from working with competing undertakings.

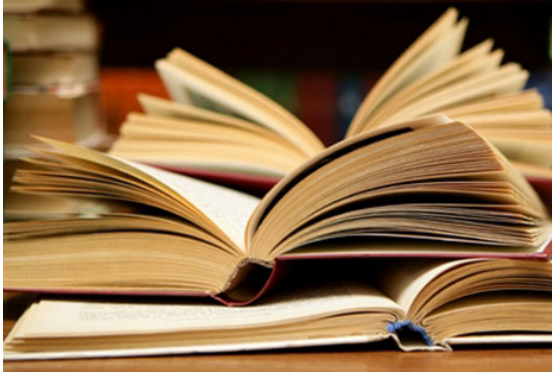
As a result of the preliminary inquiry, it was decided that the provision in Baymak's agreements with authorized services aimed at

territory restrictions by preventing authorized services from making active sales except for their regions and Baymak's practices could not benefit from block exemption according to the Block Exemption Communiqué no 2002/2 on Vertical Agreements and individual exemption within the scope of article 5 of the Act no 4054. Therefore, the practices in question raised suspicions about an infringement.

As a result of the commitment application by BAYMAK, the decision dated 24.03.2022 and numbered 22-14/221-95 was taken that the commitments to end territory restrictions were able to solve competition problems; thus, the said commitments would be accepted and made binding in terms of the undertaking concerned; the preliminary inquiry about Baymak would be terminated.

Nadirkıtap Investigation Decision

(Board Decision dated 07.04.2022 and numbered 22-16/273-122)



The case examined the claim that Nadirkıtap Bilişim ve Reklamcılık AŞ, which carries out intermediary services in the market for online sale of second hand books, abused its dominant position by complicating the activities of competing undertakings by means of not supplying the data of seller members who want to market their products through competing intermediary service providers.

Within the framework of the investigation, the relevant market was defined as *“the platform services providing intermediary services for the sale of second hand books”* and the relevant geographic market was defined as *“Türkiye”*. Then, the position of the undertakings in the relevant market and whether Nadirkıtap was dominant were examined. Considering undertakings' market shares calculated on the basis of the number and amount of sales, the number of sellers they had contracts with, buyer power, network effects and barriers to entry in the market together with digital platform economies' characteristics led to the conclusion that Nadirkıtap was dominant in the relevant market.

Depending on the information and documents obtained in the file, it was understood that Nadirkıtap refused sellers' requests for access to the book data they uploaded to Nadirkıtap and data portability without a justifiable reason. It was observed that Nadirkıtap's conduct increased costs of switching to competing platforms, which not only complicated competitors' access to sellers and thus their activities but also created barriers to entry.

As a result of the investigation, it was decided that Nadirkıtap abused its dominant position within the framework of article 6 of the Act no 4054 on the Protection of Competition by means of preventing access to and portability of the data which seller members uploaded to www.nadirkıtap.com without a justifiable reason and therefore the undertaking shall be imposed administrative fines. Moreover, in order to ensure that the violation would be terminated and efficient competition would be established in the market, Nadirkıtap was imposed obligations to provide the book inventory in a correct, clear, secure and complete way in a free and convenient format to the seller members in case they requested so.

Mineral Water Investigation Decision

(Board Decisions dated 14.04.2022 and numbered 22-17/283-128 and Board Decision dated 18.05.2022 and numbered 22-23/379-158)



The investigation examined whether Beypazarı İçecek Pazarlama Dağıtım Ambalaj Turizm Petrol İnşaat Sanayi ve Ticaret A.Ş. (Beypazarı) and Kınık Maden Suları A.Ş.(Kınık) violated article 4 of the Act no 4054.

During the investigation process, the Board accepted active cooperation applications made by both investigation parties. As a result of the assessments made within the scope of the

“Regulation on Active Cooperation for Detecting Cartels”, it was decided to make reductions in the administrative fines to be imposed as a result of the investigation. In addition, both investigation parties also applied for settlement. The Board accepted the settlement requests. At the end of the settlement process, the investigation was terminated with settlement in terms of both parties. Accordingly, it was decided that the undertakings in question violated article 4 of the Act no 4054 by means of price fixing through information exchange with a competitor about current and future prices, price changing dates and price rises and thus by means of forming a cartel. The undertakings were imposed administrative fines.

The decision is important since it is the first decision where active cooperation and settlement procedures were applied together.

Adidas Preliminary Inquiry Decision

(Board Decision dated 21.04.2022 and numbered 22-18/300-133)



The preliminary inquiry was about the claims that Adidas Spor Malzemeleri Satış ve Pazarlama A.Ş. (Adidas) intervened to its authorized dealers' retail prices and violated the Act no 4054 with its practices.

The relevant markets are; “branded trainers market”, “branded sportswear market” and “sports accessories and equipment market” whereas the relevant geographic market was

defined as “Türkiye”.

No information or document was found showing that Adidas intervened to its dealers' retail sales prices in the examinations made. In addition, the claim that Adidas prevented the complainant outlet from printing the domain name of the commercial website it has as an authorized dealer on its paper bags given in its outlet but allowed some bigger dealers' website addresses on their shopping bags. As a result, Adidas discriminates against smaller dealers by urging them to use the shopping bags with its commercial trade address on. As a result of the assessments made, it was concluded that Adidas applies different policies to dealers with different statuses; thus, it is not possible to talk about discrimination in the sense of competition law. Moreover, there was no concrete evidence showing that Adidas violated the Act no 4054 by means of discrimination.

As a result, Adidas's practices concerning its dealers cannot be regarded as violation within the framework of articles 4 and 6 of the Act no 4054 on the Protection of Competition and it is not necessary to initiate an investigation according to Article 41 of the Act no 4054.

Biopharmaceutical Logistics Investigation Decision

(Board Decision dated 26.05.2022 and numbered 22-24/390-161)



In line with the application made within the scope of the Regulation on Active Cooperation for Detecting Cartels (Leniency Regulation) Whether Biopharma Logistics Uluslararası Taşımacılık Sanayi ve Ticaret A.Ş.(Biopharma), Transorient Uluslararası Taşımacılık ve Ticaret A.Ş. (Transorient) and Tunaset Biofarma Lojistik Hizmetleri A.Ş. (Tunaset), which carry out activities in local and international door-to-

door transportation services sector in the area of biopharmaceuticals, violated article 4 of Act no 4054 by means of making agreements for customer allocation and imposing non-compete obligation regarding the allocated customers for an unlimited time.

In the case, biopharmaceutical logistics is defined as the transportation of especially clinical researches and commercial drugs, vital vaccines, drugs, biological samples and medical equipment with time and heat sensitivity. It was found that biopharmaceutical transportation is different from other logistics activities because it requires expertise, technical know-how and significant investments. The relevant market was defined as "*biopharmaceutical logistics*" and the relevant geographic market was defined as *Türkiye* because the logistics firms in question can carry out activities in *Türkiye* and the service offered is not limited to a city or region.

Since Transorient has direct control over Tunaset; Transorient and Tunaset were evaluated in the same economic unity.

During the investigation, agreements showing customer allocation between the parties and correspondence supporting those were found. Those agreements were also included in the leniency application. As a result of the assessment made based on the documents obtained, it was concluded that parties to the investigation conducted behavior that constituted an infringement under the scope of article 4 of the Act and those customer allocation agreements fell under the definition of cartel. On the other hand, non-compete claims in the case were considered under the scope of the Guidelines on Vertical Agreements, Block Exemption Communiqué on Vertical Agreements and the Guidelines on Undertakings Concerned, Turnover And Ancillary Restraints In Mergers And Acquisitions. It was concluded that the agreements could not be considered under the scope of the relevant legislation because they were agreements for an unlimited time made directly between competitors for customer allocation.

Individual exemption assessment was also made according to article 5 of the Act but the agreements did not meet individual exemption requirements.

As a result, it was decided that Transorient-Tunaset economic unity and Biopharma violated article 4 of the Act no 4054; however, taking into account Biopharma's application within the scope of the Leniency Regulation, the undertaking would be granted full immunity from fines whereas Transorient-Tunaset economic entity would be imposed administrative fines.

Laboratory Test/Diagnosis Preliminary Inquiry Decision (Board Decision dated 02.06.2022 and numbered 22-25/400-165)



In the case, the complainant argued that both manufacturers and dealers engaged in concerted practice and violated article 4 of the Act no 4054. The preliminary inquiry examined the claim that undertakings active in laboratory test/diagnosis services market violated article 4 of the Act no 4054 by means of bid rigging. Of the undertakings concerned, Abbott Laboratuvarları İth. İhr. ve Tic. Ltd. Şti. (Abbott), Beckman Coulter Biyomedikal

Ürünler ve San. Tic. Ltd. Şti. (Beckman), Siemens Healthcare Sağlık A.Ş. (Siemens), Sysmex Turkey Diagnostik Sistemleri Ltd. Şti. (Sysmex) are manufacturers of several products under the umbrella of "in vitro diagnostic systems". Other undertakings concerned, Medikoset Tıbbi Ürünler Sanayii ve Ticaret Ltd. Şti. (Medikoset), Medikolife Laboratuvar Tıbbi Cihaz ve Sarf Malzemeleri Sanayii ve Ticaret Limited Şirketi (Medikolife), Med-Kim Kimya San. ve Tic. Ltd. Şti. (Med-Kim), Gazi Kimya Laboratuvar Sistemleri İth. İhr. San. ve Tic. A.Ş. (Gazi Kimya), Meditera Tıbbi Malzeme San. ve Tic. A.Ş. (Meditera), Disera Tıbbi Malzeme Lojistik San. Tic. A.Ş. (Disera) and Diakim Diagnostik Ürünler

San. ve Tic. Ltd. Şti. (Diakim) distribute those manufacturers' products and procure products and services to health institutions, especially public hospitals.

It was understood that undertakings at distribution level participated in public tenders sometimes as an authorized/main dealer, sometimes at tender-basis with authorization certificates they took from the main dealer and manufacturer. In that case the manufacturer authorized the main dealer or its project-based dealers; the dealer authorized a sub-dealer. Authorizing a sub-dealer is frequent in the sector. No information or document was found proving bid rigging claims which are the basis of the complaints in on-sight inspections. There is no legal barrier to participate in a tender by taking an authorization certificate according to the specifications of the tenders per the Act no 4734 on Public Procurement and Service Procurement Tender Regulation, which is also frequently stated by undertakings participating in a tender. When a new bid is offered for an installed device, undertakings do not bear the cost of installing a new device and benefit from financial advantage in tenders. As a result, the Board decided that it is not necessary to initiate an investigation about the conduct in question.

Hayırlı El Investigation Decision

(Board Decision dated 21.07.2022 and numbered 22-33/523-210)



The case was about whether Hayırlı El Kozmetik Pazarlama AŞ (Hayırlı El) determined the resale prices of the products sold by its resellers and violated article 4 of the Act no 4054 on the Competition.

Considering the undertaking's fields of activity, it was possible to define the relevant market "as mass market for the sale of cosmetics" and "market for the sale of hairdresser/barber

equipment". However, depending on paragraph 20 of the Relevant Market Guidelines stating that "in case the transaction under examination does not pose concerns for competition within the framework of potential alternative market definitions in terms of both product and geography, or in case there are competition distorting effects for all alternative definitions, a market definition may not be made", the relevant product market was not defined. The relevant geographic market was defined as Türkiye.

As a result of the Preliminary Inquiry Report prepared in line with the information and documents in the file, the decision dated 24.03.2022 and no 22-14/235-M was taken to initiate an investigation about Hayırlı El according to article 41 of the Act no 4054 to determine whether Hayırlı El violated article 4 of the same Act by means of intervening to the prices of the products sold by its resellers.

While the investigation was ongoing, Hayırlı El applied for settlement. With the Board decision dated 12.05.2022 and no 22-21/356-M, settlement discussions started. According to the final decision taken as a result of the settlement procedure, it was decided that

- Hayırlı El Kozmetik A.Ş.'s conduct for determining sales prices of its resellers violated article 4 of the Act no 4054,
- Hence, according to Article 16(3) of the Act no 4054 and Article 5(1)(b), 5(2) and 5(3) (b) of the Regulation on Fines to Apply in cases of Agreements, Concerted Practices and Decisions Limiting Competition, and Abuse of Dominant Position, the said undertaking shall be imposed administrative fines on the basis of the annual gross revenues in 2021,
- 25% reduction shall be made in the administrative fines to be imposed to the undertaking as a result of the settlement procedure according to article 43(7) of the Act no 4054 and article 4(4) of the "Regulation on the Settlement Procedure Applicable In Investigations On Agreements, Concerted Practices And Decisions Restricting Competition And Abuses Of Dominant Position",
- Within this framework, as a result of the settlement procedure, final administrative fines shall be imposed on the undertaking on the basis of the annual gross revenues in 2021,
- Therefore, the investigation conducted per the Competition Board decision dated 24.03.2022 and numbered 22-14/235-M shall be concluded with settlement.

Martı ve Mobilite A.Ş. Commitment Decision (Board Decision dated 21.07.2022 and no 22-33/527-214)



The claim that Martı İleri Teknoloji A.Ş. (Martı) is dominant in electric scooter market; abused its dominant position by leading to anticompetitive market foreclosure through excluding its competitors with below cost pricing and other methods and thus violated the Act no 4054 was examined in the case.

According to the analyses made on the basis of total number of scooters, total driving minutes and total revenues in Ankara, İstanbul and İzmir as well as overall Türkiye, it was observed that Martı had a high market share especially at earlier times with first mover advantage and maintained its market leadership in terms of driving minutes in the three cities. Martı was considered to have market power. As a result of the comparison of Martı's average cost and average price in Ankara

between October 2019 and April 2022, in İstanbul between March 2019 and April 2022 and in İzmir between September 2019 and April 2022, it was seen that the undertaking's average price was sometimes below the average cost. During the investigation process, Martı offered a commitment package related to the competitive concerns in the file. Within the framework of the Commitment Package;

- As of April 30, 2022, in İstanbul and İzmir, where Martı's share is 50% and over in respect of e-scooter driving minutes, undertaking's monthly average revenues for the last 12 months per e-scooter drive in the relevant city will be over monthly average avoidable (variable) costs per drive during the same period,
- The lifetime of e-scooter will be taken as 36 months and e-scooters will be developed accordingly. For the calculation of average avoidable costs, operational expenses on a city-base, including e-scooter depreciation expenses, will be taken as a basis; however fixed costs such as general management expenses and R&D will not be considered.
- The commitment will be applied for six months as of October 1, 2022.
- The analysis showing that the commitment is fulfilled will be submitted to the Authority in written form within 30 days after the six-month commitment period has expired.

It was decided that the commitment package was able to eliminate the competition problems identified during the investigation phase, therefore the commitments package shall be made binding as per Article 43(3) of the Act no 4054 and Article 14(1) of "the 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, and the investigation process shall be terminated.

3.2. Exemption/Negative Clearance

According to article 5 of the Act titled "Exemption", the Board may exempt agreements, concerted practices or decisions of associations of undertakings from the provisions of article 4 provided that they fulfill the requirements listed in that Article. The evaluation for exemption must be done first by undertakings and associations of undertakings since there is not an obligation/necessity to notify. Undertakings should take into account block exemption communiqués, guidelines explaining those communiqués and other relevant guidelines as well as previous Board decisions while making an evaluation for exemption. The communiqués and guidelines issued within this framework are:

- "Block Exemption Communiqué no 2002/2 on Vertical Agreements" and "Guidelines on Vertical Agreements"
- "Block Exemption Communiqué no 2008/2 on "Technology Transfer Agreements" and "Guidelines on the Application of Articles 4 and 5 of the Act no 4054 on the Protection of Competition to Technology Transfer Agreements"
- "Block Exemption Communiqué no 2008/3 on Insurance Sector"
- "Block Exemption Communiqué no 2013/3 on Specialization Agreements"
- "Block Exemption Communiqué no 2016/5 on Research and Development Agreements"
- "Block Exemption Communiqué no 2017/3 on Vertical Agreements in the Motor Vehicles Sector" and "Guidelines on the Block Exemption Communiqué on Vertical Agreements in the Motor Vehicles Sector"
- "Guidelines on Horizontal Cooperation Agreements"
- "Guidelines on Subcontracting Agreements"
- "Guidelines on the General Principles of Exemption"

According to Article 8 of the Act, upon the application by the undertaking or associations of undertakings concerned, the Board may grant a negative clearance certificate indicating that an agreement, decision, practice or merger and acquisition are not contrary to articles 4, 6 and 7 of this Act.

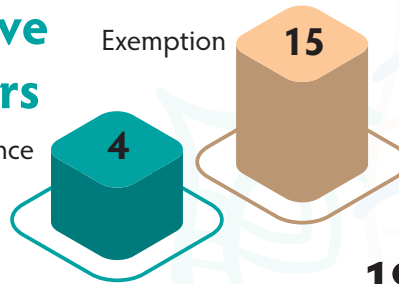
The method for exemption/negative clearance applications are explained in "Guidelines on the Voluntary Notification of Agreements, Concerted Practices and Decisions of Associations of Undertakings"

Article 13 of the Act regulates the withdrawal of exemption or negative clearance decisions. Accordingly, the Board may withdraw exemption or negative clearance decisions or prohibit certain behavior by undertakings in case the circumstances listed in the said article occur. Exemption/negative clearance files concluded by the Board in 2022, the breakdown of those according to sectors and outcomes of the decisions are presented in the chart on the following page.

Exemption & Negative Clearance in Numbers

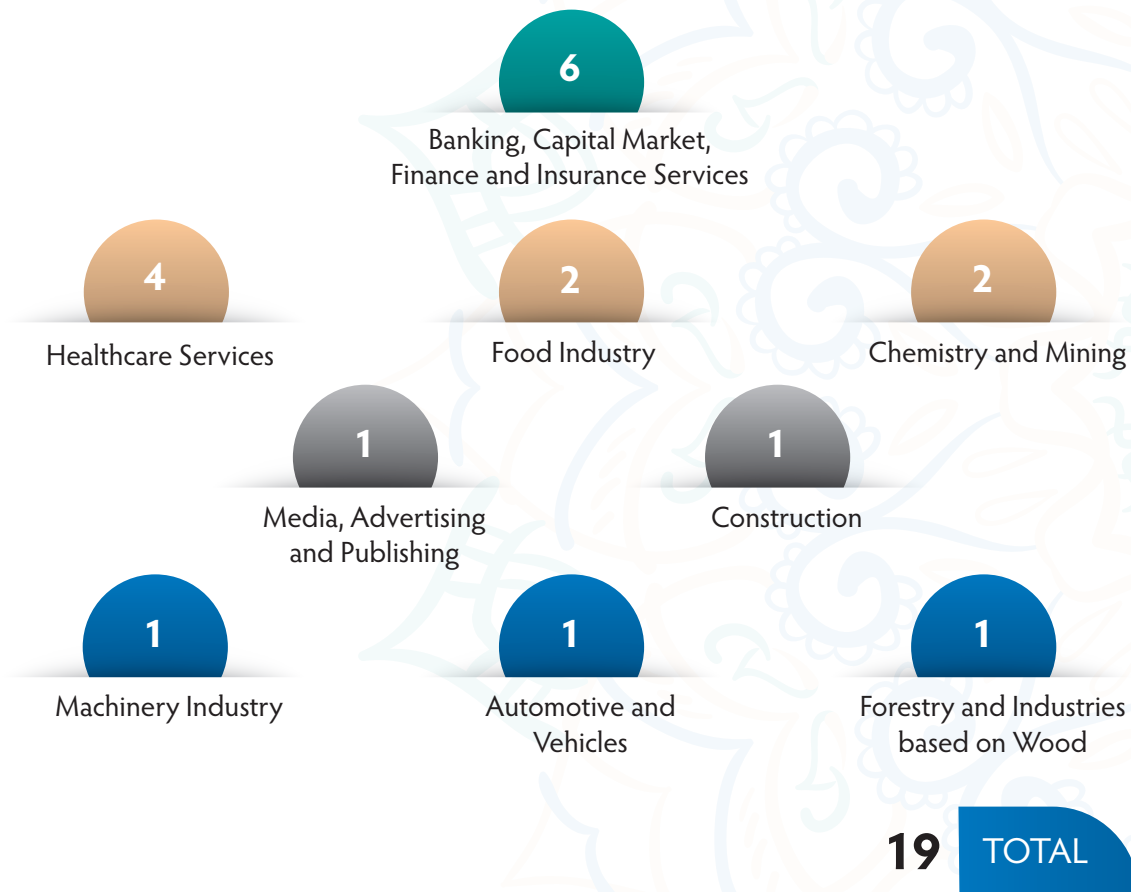
Negative Clearance

Exemption

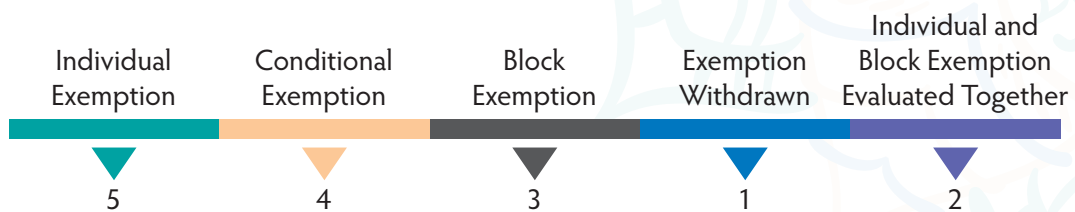


19 DECISIONS

Breakdown of the Decisions According to Sector



Results of Exemption Decisions



The charts on the previous page show that a total of 19 exemption/negative clearance files were concluded, four being negative clearance and 15 being exemption. Banking, capital market, finance and insurance services, healthcare services, chemistry and mining sectors are the ones with the highest number of exemption/negative clearance examinations in the said year.

3.2.1 Examples from Negative Clearance/Exemption Decisions

TBB Exemption Decision

(Board Decision dated 10.02.2022 and numbered 22-08/111-44)



The decision is about the request that “the Professional Classification Recommendation about Member Merchants Collecting Fees under the Name of Fee, Interest, Commission or Similar Names due to the Use of Debit Cards or Credit Cards” (Professional Classification Recommendation) of the Banks Association of Türkiye (TBB) dated 21.04.2021 and no 23 be granted negative clearance certificate according to article 8 of the Act no 4054, if not possible,

be granted individual exemption according to article 5 of the Act.

The notified Professional Classification Recommendation concerns the establishment and functioning of systematic monitoring mechanism covering TBB member banks in order to fulfill the requirements of the provision stated in Article 17(1) of the Act no 5464. The Recommendation regulates the following issues: Member banks that are notified of an incompatible transaction will close all physical and virtual POS terminals which they have allocated to the relevant member merchant or sub-merchant and terminate member merchants' agreements; they will not make a member merchant agreement with the relevant members and allocate POS for one year. According to the Recommendation, information about members who have made an incompatible transaction will be given to TBB; after a notification is sent to the member merchant, Participation Banks Association of Turkey and Payment and Electronic Money Institutions Association of Türkiye will be notified by means of a communication infrastructure to be established under Interbank Card Center that the incompatibility is solved or member merchant agreement is terminated because the incompatibility is not solved.

As a result of the assessments made, it is understood that Professional Classification Recommendation and the attached Information Draft aim to “monitor the market” and “implement sanctions”. It is concluded that articles 1, 2 and 4 of the recommendation are not likely to affect competition negatively because they concern actions within the scope of duties and powers entrusted to associations by the Banking Law; in addition, they do not correspond to an exchange of competitively sensitive information. Therefore the decision dated 10.02.2022 and numbered 22-08/111-44 has been taken to grant articles 1, 2 and 4 of the Professional Classification Recommendation negative clearance certificate according to article 8 of the Act no 4054 since the said articles are not under the scope of

article 4 of the same Act. According to article 3 of the Professional Classification Recommendation, concerning member merchants that have made an incompatible transaction, member banks will close physical or virtual POS terminals they allocate to the merchants in question in seven days starting from the date of the notification at the latest and they will not make merchant member agreement with the member merchants in question for one year. It has been decided that this article and the first and the second provisions of the Information Draft may be regarded a competition infringement under the scope of article 4 of the Act no 4054; they do not fulfill the conditions listed in article 5 of the same Act in their current form; therefore they cannot benefit from individual exemption; however, if article 3 of the Professional Classification Recommendation and the first and the second provisions of the Information Draft are omitted, negative clearance certificate shall be given to Professional Classification Recommendation according to article 8 of the Act no 4054.

İMDER Exemption and Negative Clearance Decision (Board Decision dated 07.04.2022 and numbered 22-16/269-121)



The case is related to granting negative clearance certificate/exemption to the reports to be shared by Türkiye Construction Equipment Distributors and Manufacturers Association (İMDER) with its members. Observations and evaluations are made with regard to “construction equipment” but the relevant product market was not defined. Since the transaction will be applied throughout Türkiye and there are no differences between

regions in terms of conditions of entry, supply sources and distribution and market conditions in terms of the products that are relevant to the exchange of information the relevant market is defined as *Türkiye*.

It is stated in the application that in case the transaction is authorized, the reports will be presented under three titles: the report collecting monthly sales data for construction equipment (Monthly Report), the report collecting annual sales data for construction equipment (Annual Report-I) and the report collecting annual leasing data for construction equipment (Annual Report -II). The said reports will be shared by İMDER with its members over the platform called “İmderonline” in different formats showing sales and leasing data for construction equipment.

As a result of the examination made, it was decided that Annual Report - II could be granted negative clearance certificate because the data to be shared will lose its strategic nature as they are countrywide and they will be shared after aging for three months, and the Report will not include the number of leases pertaining to financial leasing companies. The data covered by the Monthly Report will not lose their strategic nature because they will not be old enough in terms of the frequency of sharing and their age whereas the data covered by Annual Report- I may lead to coordination on the basis of a

city because they will be shared on a city-basis. Consequently, it was concluded that Monthly Report and Annual Report-I would not be granted negative clearance certificate. Accordingly, individual exemption assessment was made for Monthly Report and Annual Report -I.

As a result of the individual exemption assessment for Monthly Report-I and Annual Report-I within the framework of article 5(1) of the Act no, 4054, the following observations are made: In the construction equipment market, there are not any market studies, the reports to be prepared by İMDER may prevent significant waste of resources and provide cost advantage through İmderonline in terms of the undertakings in the market, Consumers will benefit because undertakings can position themselves more correctly and compensate data deficiency within the scope of the information exchange, Construction equipments are different products, far from being homogeneous. The competition in the market depends on quality, efficient marketing, brand perception, quick response to demand, ability to develop new models, product variety and wide after-sale services network beside prices. The market has a competitive, complex and unstable structure. Taking into account those facts, the notified information exchange may prevent possible negative effects on competition in the relevant market. The information exchange will not restrict competition more than necessary due to the following reasons: In terms of the Monthly Report, sales amount data will be published countrywide in an aggregated way not to include individual data at the end of the relevant month. There will be at least five participants and no participants' weight in the consolidated data will exceed 25%. The Authority has not done any studies about construction equipment market before. The market structure is complex and unstable. In terms of the Annual Report-I, there will not be data on an undertaking basis. Past data will be shared after aging. The market structure is complex and unstable.

As a result, it was decided that the information exchange under the umbrella of the Monthly Report and Annual Report meet the conditions listed in article 5 of the Act no 4054, the said reports can be granted individual exemption to see their effects in the market for 5 years and Annual Report-II is eligible for negative clearance certificate per article 8 of the Act no 4054.

Changzou Btr Exemption Decision (Board Decision dated 23.06.2022 and numbered 22-28/452-183)

The subject of the case is the request for negative clearance/exemption to joint venture agreement concerning the production and sale of triple cathode equipment by Changzou BTR New Material Co. Ltd. (Changzou Btr), which is jointly controlled by SK Innovation Co. Ltd. (SK Innovation), BTR (Jiangsu) New Material Technology Co. Ltd. (BTR Jiangsu) and EVE Asia Co. Ltd. (EVE) to SK Innovation and EVE and their affiliated companies.

The relevant market was defined as *"triple cathode equipment market"*. Changzou BTR, on which joint control is created with the joint venture agreement, will operate in the triple cathode market. The relevant geographic market is defined as Türkiye because there are not significant differences on the basis of regions.

Within the scope of article 5(3) of the Communiqué no 2010/4 on Mergers and Acquisition Calling for the Authorization of the Competition Board", an evaluation is made about whether Changzou

BTR is jointly controlled by SK Innovation, BTR Jiangsu and EVE, if so, whether the joint control is full-functioning. Although it is thought that Changzou BTR will be jointly controlled, the joint venture will not be full-functioning; thus, the notified transaction should be considered as a cooperation agreement between the parties.

As a result of the assessments made, it is concluded that the joint venture agreement in question cannot be granted negative clearance certificate. Individual exemption evaluation is made for the notified transaction. The joint venture will ensure continuity and predictability in the supply of triple cathode equipment that SK Innovation and EVE will use in the batteries they will produce, which is considered as an efficiency gain. As a result of the activities of the joint venture to be established, the possible increase in the supply of cathode equipment to be used in lithium ion batteries will contribute to solving supply problems and reductions in prices. Ultimately, this will benefit consumers. Considering the market shares of the parties as well as the market structure before and after the transaction, it is thought that competition will not be distorted in a significant part of the market. Lastly, the following points are stated in the exemption evaluation: Changzou BTR will provide the triple cathode equipment to SK Innovation and EVE in line with their needs at the first stage. If Changzou BTR reaches an adequate production volume, it can provide products to SK Innovation's and EVE's competitors, although it will prioritize their demand. SK Innovation and EVE do not have to buy triple cathode equipment only from Changzou BTR. Taking into account all these facts, the notified transaction does not unduly restrict competition to fulfill the first two requirements of individual exemption. As a result of the assessments made, it is decided that the agreement concerning the joint control of Changzou BTR by SK Innovation, BTR Jiangsu and EVE will be granted individual exemption because it fulfills all the conditions listed in article 5 of the Act no 4054.

Unmaş Withdrawal of Exemption Decision (Board Decision dated 07.07.2022 and numbered 22-32/506-203)



With the preliminary inquiry decision of the Board dated 20.05.2021 and numbered 21-26/324-150, it was decided that the practices of Unmaş Unlu Mamuller Gıda San. ve Tic. A.Ş. (Unmaş) towards final sales points that fell under the scope of article 4 of the Act no 4054 benefited from block exemption within the framework of the "Block Exemption Communiqué no 2002/2 on Vertical Agreements"; however, an examination would be initiated according to article 6(1) of the Vertical

Communiqué to decide whether the exemption would be withdrawn per article 13 of the Act.

Within the framework of the assessments regarding the withdrawal of exemption, a market power evaluation was made under the scope of article 5 of the Act no 4054. The position of

the supplier and its competitors, barriers to entry, the position of the buyers in the market, saturation level of the market, level of trade, features specific to the product and other factors were examined.

As a result of the assessments made, the following conclusions were made: Unmaş has high market share compared to its competitors. The competitive pressure by discount markets selling private label products and brand owner producers on Unmaş is limited. Subcontracting model in the market contribute to Unmaş's market power. Brand owners other than Unmaş do not access to discount markets with their branded products, thus Unmaş has significant market power. Depending on this, there are barriers to entry because vertical restrictions are implemented on retail level, there are distribution requirements in the market and undertakings have excess capacity. As a result, negative effects created by exclusivity cannot be offset with efficiency gains. It was decided that the block exemption that Unmaş benefited shall be withdrawn according to article 13(a) of the Act no 4054 and article 6(1) of the Vertical Communiqué since the requirement in article 5(1)(c) of the Act no 4054 that competition in a significant part of the market should not be eliminated could not be met in the industrial packaged bread market under current conditions.

The decision is important because it shows that exemption under the scope of Vertical Communiqué may be withdrawn when the relevant undertaking's market share is less than 30%.

3.3. Mergers and Acquisitions

Article 7 of the Act No. 4054 on the Protection of Competition prohibits mergers and acquisitions which would result efficient in significant lessening of competition within the whole or a part of the country in order to create dominant position or strengthen an existing dominant position. The Article provides that certain agreements should be notified and authorized by the Board to be legally valid and states that Board declares, via communiqués to be issued by it, the types of mergers and acquisitions which have to be notified to the Board and for which authorization has to be obtained, in order them to become legally valid. Accordingly, the Communiqué No 2010/4 Concerning the Mergers and Acquisitions Calling for the Authorization of the Competition Board" is in force.

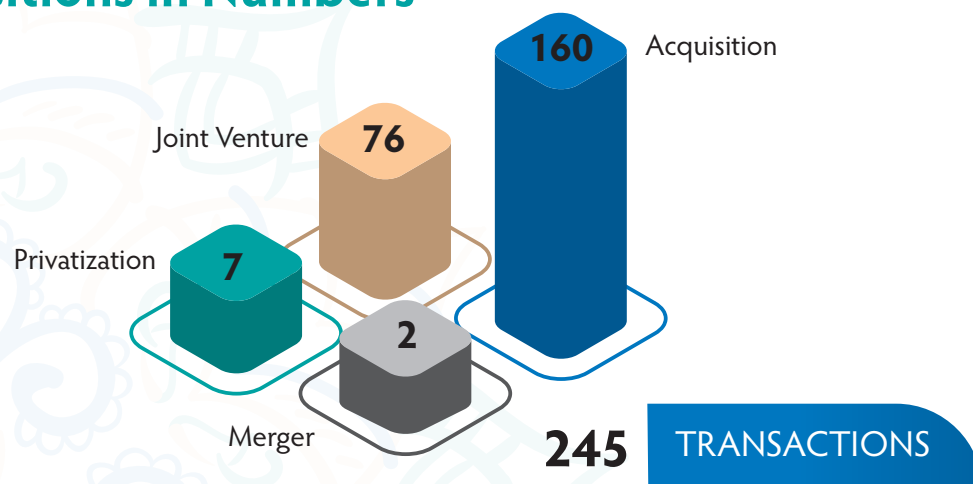
In addition, the Competition Board issued several guidelines related to monitoring mergers and acquisitions. Those are

- "Guidelines on Cases Considered as a Merger or an Acquisition and the Concept of Control", which is related to cases considered as a merger or an acquisition and permanent change in control which is the fundamental factor in determining those cases,
- Guidelines on Undertakings Concerned, Turnover and Ancillary Restraints in Mergers and Acquisitions for increasing clarity and predictability for undertakings and enforcers,

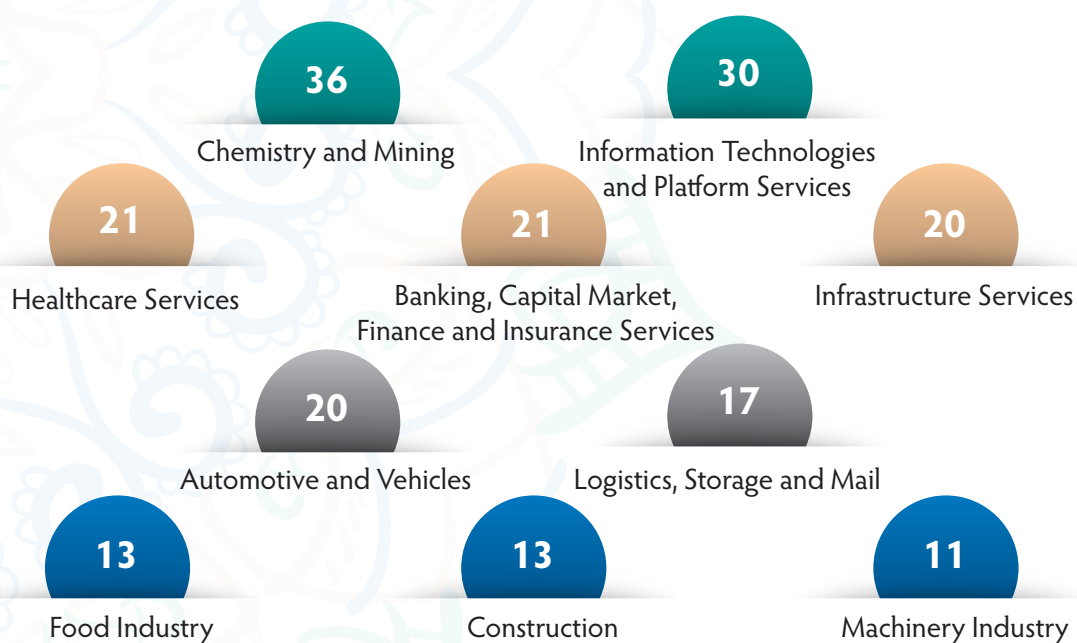
- To demonstrate the general principles to be taken into account by the Competition Board in preliminary assessments concerning horizontal mergers and acquisitions “Guidelines on the Assessment of Horizontal Mergers and Acquisitions”,
- “Guidelines on the Assessment of Non-Horizontal Mergers and Acquisitions” for explaining the general principles to be taken into account by the Competition Board in preliminary assessments concerning non-horizontal mergers and acquisitions,
- To guide the parties about the remedies they will submit in order to eliminate competitive concerns to be created by a concentration that might be prohibited by Article 7 of the Act, “Guidelines on Remedies That are Acceptable by the Turkish Competition Authority in Merger/Acquisition Transactions”

As seen from the chart on the previous page, in 2022, the Competition Board concluded 245 applications; being two mergers, 160 acquisitions, 76 joint ventures and seven privatizations. Regarding those applications, 241 were concluded as a result of preliminary inquiries and four were concluded as a result of final examinations. The first ten sectors that have been the subject of merger/acquisition decisions the most in 2022 are respectively chemistry and mining; information technologies and platform services; healthcare services; banking, capital market, finance and insurance services; infrastructure services; automotive and vehicles; logistics, storage and mail; food industry; construction and machinery industry. The decisions taken related to those sectors constitute about 82% of all merger/acquisition decisions. Other sectors with 9 decisions, forestry and industries based on wood with 5 decisions and textile and ready-made clothing sector with 5 decisions follow those ten sectors. 209 merger and acquisition transactions were authorized without conditions and two were authorized conditionally out of 245 merger and acquisition transactions examined by the Competition Board in 2022. 34 merger/acquisition transactions submitted to the Board were out of scope or not subject to authorization. Five transactions were taken under final examination in 2022; four of them were concluded in 2022. Final examination process related to other transaction is ongoing.

Mergers and Acquisitions in Numbers



Breakdown of the Transactions According to Sector (First ten sectors)



Sectors	Final examinations initiated in 2022	Final examinations concluded in 2022
Construction Service and Equipment	3	3
Retail	1	1
Automotive and Vehicles	1	-

3.3.1. Examples from Decisions Related to Mergers and Acquisitions

Acquisition of Vesper Kimya through Arisan Kimya

(Board Decision dated 24.02.2022 and numbered 22-10/155-63)



The subject of the file is the acquisition of Arisan Kimya Sanayi ve Ticaret A.Ş. and Transol Arisan Kimya Sanayi ve Depolama Ltd. Şti. by Vinmar Group through Vesper Kimyevi Maddeler A.Ş. (Vesper Kimya). Vesper Kimya is a distributor of special chemicals, which sells and markets raw materials to firms operating in different sectors such as cosmetics, detergent, textile, food and medicine. Vinmar Group is a US-based undertaking operating in the sales

and distribution of polymer and petrochemicals.

The firms to be acquired operate in cosmetics and personal care, food, medicine, home and industrial cleaning (antiseptics), mineral oil and industrial chemicals.

The Board concluded that the transaction in question would not result in significant lessening of efficient competition although there are horizontal and potential vertical overlaps in the chemicals used in sectors such as cosmetics, industrial cleaning, food and medicine.

Moreover, non-compete and no-poach obligations that had the nature of ancillary restrictions were also examined under the scope of the decision. The parties stated the following within the framework of the transaction:

- Special chemicals/chemical raw materials require significant *know-how* because of their highly complex structure requiring expertise,
- There are long-term commercial relationships with buyers
- Customer dependency is relatively high in special chemicals sector,
- Buyers of special chemicals are industrial customers
- In order to obtain the benefits expected from the total transaction value and investments fully, non-compete obligation as an ancillary restriction shall be imposed for four years.

As a result of the assessment by the Board, it was decided that the transaction shall be authorized on condition that the term of non-compete and no-poach obligations shall be arranged to be valid for three years after the transaction, taking into account market characteristics, customer dependency and the nature of *know-how*.

Acquisition of Adatıp Sağlık's Sole Control by Lokman Hekim (Board Decision dated 24.03.2022 and numbered 22-14/233-101)



The parties requested that all of the shares and therefore the sole control of Adatıp Sağlık Hizmetleri Ticaret A.Ş. (ADATIP SAĞLIK) by Lokman Hekim Engürüsağ Sağlık Turizm Eğitim Hizmetleri ve İnşaat Taahhüt A.Ş. (LOKMAN HEKİM) be authorized. The notified transaction is subject to authorization since it exceeds the turnover thresholds stated in Article 7 of the Communiqué no 2010/4.

The notified transaction is about the acquisition of ADATIP SAĞLIK by LOKMAN HEKİM, which is active in hospital operation market, the affected market is defined as *“private hospital operation market”*. The hospital to be acquired is in Pendik therefore the relevant market is defined as Anatolian side of İstanbul.

The acquisition agreement includes a non-compete obligation. This point is examined in the decision separately. It is stated that the seller being active in the relevant market under the name “Adatıp Hospital” again will be a barrier to LOKMAN HEKİM's fully benefiting from the investments; for this reason, the non-compete obligation will facilitate moving to the new structure to be brought by the acquisition and is directly related to the transaction.

Taking into account that the acquiring party is identified as “health facility area” in the development plan in Pendik and has right to repurchase, it is decided that the five-year period concerning the purchase of the acquired undertaking by the buyer properly will be appropriate as an ancillary restriction in order for the non-compete obligation to be reasonable.

Naksan Plastik Privatization Decision (Board Decision dated 07.04.2022 and numbered 22-16/260-114)

The notified transaction concerns the acquisition of Naksan Plastik Economic and Commercial Unity (Naksan Plastic) by Aby Plastik Ambalaj ve Enerji Sanayi Ticaret A.Ş. (Aby Plastik) with all liabilities and obligations through Savings Deposit Insurance Fund.

Depending on the preliminary notification concerned, the Board concluded that the said transaction is subject to authorization and it is not necessary to impose a condition and/or obligation related to the transaction. As a result of the final bargaining negotiations about the tender after the preliminary notification, Aby Plastik was designated as the buyer. Afterwards the transaction was taken under final examination.

Aby Plastic informed that there would be a change in shareholding structure before the acquisition was completed. After the change, real persons of the same family would own the shares. In competition law, real persons controlling an undertaking and the structure composed of the members of the family they belong to are regarded as a group and family members are considered to be in the same economic unity. In terms of the relations between real persons, “unity of interest” that distorts the incentive to compete applies instead of the concept of “control”. After the said change, Aby plastic is controlled by the persons in the same family. Activity areas of legal persons in which the family, who is the notifying party, have shares are also examined.

“Flexible package market” and “plastic and packaging raw materials market” are specified as the affected markets in the case. Taking into account the market shares in the affected markets, the following observations are made: The market shares are low and there are a lot of players in “flexible package market” and “plastic and packaging raw materials market”. In case the transaction is authorized it is not likely that the merged undertaking will have ability to restrict input or consumers; coordinated effects will not be created and there will not be negative impact on competition in the affected markets. As a result of the assessments made, it was decided that the notified acquisition would be authorized, as it would not result in significantly lessening of effective competition.

Daimler Truck AG, Traton SE and Aktiebolaget Volvo Preliminary Inquiry Decision (Board Decision dated 28.04.2022 and numbered 22-20/320-142)



The notified transaction is about the creation of a joint venture for establishing and operating high performance charging network for battery-electric heavy-duty trucks and buses between Daimler Truck AG, Traton SE and Aktiebolaget Volvo.

In line of the information obtained, it is concluded that the parties do not have activities in establishing and operating high performance charging network for battery-electric heavy-duty trucks and buses;

the joint venture will be undertakings' first attempt in the relevant market. The joint venture will not carry out activities in Türkiye. There are no plans to operate the joint venture in Türkiye in the near future, either. Whether there is a vertical overlap between the joint venture and parties' activities is analyzed. It is found that parties do not carry out any activities related to the production and sale of battery-electric heavy-duty trucks in Türkiye. There is a horizontal overlap between the activities of the undertakings concerned in Türkiye and at a global scale in the following markets: production and sale of passenger cars, light commercial vehicles, trucks and buses; developing, producing and distributing spare parts for those; fleet management for transport, providing financing and insurance services.

In terms of Türkiye, although the parties are important players in the overlapping markets, there are not vertical or horizontal overlaps between the joint venture and parties' activities. A special competition law compliance system will be applied so that competitively sensitive information will not be shared through the joint venture among the main companies. Therefore, it is concluded that the transaction is not likely to result in significant lessening of efficient competition and create coordination risk.

As a result of the assessments made, it is decided that the transaction will not lead to significant lessening of competition in any market and it will be authorized.

FERPA-ÇİMSA Preliminary Inquiry Decision (Board Decision dated 21.07.2022 and numbered 22-33/537-216)



The notified transaction about the request for authorization concerning the acquisition of the machinery equipment in Kayseri Cement Factory, Niğde Cement Factory, Ankara Grinding Facility, Malatya Packaging Facility and assets of Ambar, Nevşehir, Aksaray, Kahramanmaraş, Ereğli and Cırgalan Ready-Mixed Concrete Facility, which are under the umbrella of Çimsa Çimento San. ve Tic. A.Ş. (ÇİMSA) by Ferpa Çimento A.Ş. (FERPA).

FERPA carries out activities in the following areas: construction industry, construction equipment, all types of transport vehicles and car rental business, atelier services and renting real estate and movables. There are 40 different undertakings under the umbrella of Fernas Company Group (FCG), to which FERPA is affiliated. Those undertakings have activities in the following areas: infrastructure construction work, road infrastructure work and completing their superstructure, tourism, informatics services, renewable energy sources, electricity generation, natural gas distribution and sales, production and sales in food industry, sale and purchase of vehicle systems, infrastructure and prefabricated structure works in construction sector, coal mining and pickling in mining sector and plaster and plasterboard production.

The facilities to be transferred are used especially cement production, and cement packaging and ready-mixed concrete production.

In terms of the parties, there is a vertical relationship between activities about gray cement, to which cement facilities to be transferred are related, and FŞG's construction infrastructure activities. Therefore, unilateral and coordinated effects of the transaction are examined. In terms of unilateral effects and coordinated effects, the notified transaction would be authorized because it would not result in significant lessening of competition within the whole or a part of the country, especially creating dominant position or strengthening an existing dominant position under the scope of article 7 of the Act no 4054.

Sectors with the Highest Administrative Fines Imposed (2020-2022)



3.4. Statistical Data for the Last Five Years

Table 2: Finalized Files

Year	Competition Infringements	Exemption/ Negative Clearance	Merger/ Acquisition/ Joint Venture/ Privatization	TOTAL
2018	88	44	223	355
2019	69	35	208	312
2020	65	34	220	319
2021	74	22	309	405
2022	78	19	245	342

A look at the last five years of the Competition Board's work between 2018 and 2022 shows that the lowest number of finalized decisions was taken in 2019 with 312 files, and the highest number was in 2021, with 405 files. The total number of finalized files in 2022 decreased by around 16% compared to the previous year, down to 342. In parallel, the total number of finalized files in the relevant period of time may be said to vary by year.

The distribution of the files finalized in 2018-2022 according to their types show that the majority of files were merger and acquisition cases. These are followed by files on infringements of competition. The lowest share in the total number of decisions are exemption/negative clearance files. In fact, of the 342 finalized decisions in 2022, 245 were mergers and acquisitions, 78 were infringements of competition and 19 were exemption/negative clearance files. In other words, out of the decisions finalized in the relevant year, around 72% involved mergers and acquisitions, 23% involved infringements of competition, and 5% exemption/negative clearance cases.

When compared with the previous year in terms of the types of the files finalized, 2022 saw an increase in infringements of competition decisions from 74 in 2021 to 78. On the other hand, the number of merger and acquisitions decisions fell from 309 to 245, and of exemption/negative clearance decisions, from 22 to 19. As a result, the highest proportional change compared to the previous year was in the number of finalized decisions concerning mergers and acquisitions. However, in general, there is a decrease in the number of examined infringements of competition and merger/acquisition files in 2022.

Table 3: Files Concluded under Articles 4 and 6 of the Act

Year	Article 4	Article 6	Mixed (4 and 6)	TOTAL
2018	46	23	19	88
2019	30	26	13	69
2020	36	22	7	65
2021	40	23	11	74
2022	58	14	6	78

The total number of decisions taken by the Competition Board in the five-year period under examination on whether Article 4 and/or Article 6 were violated were 88, 69, 65, 74 and 78, respectively. In 2022, there was an increase of around 5% in the number of finalized decisions as compared to 2021. Of the 78 decisions taken in 2022 concerning claims of infringements of competition, 58 examined violations of Article 4, 14 examined violations of Article 6, and 6 examined violations of both Article 4 and Article 6. In that framework and similar to the previous years, the majority of the decisions taken by the Board with relation to claims of infringements of competition in 2022 also involved claims of Article 4 violations.

Table 4 shows the history of the Competition Board decisions that include claims of Article 4 violations in the last five years, revealing that the number of decisions was 65 in 2018, 43 in 2019 and 2020, 51 in 2021 and 64 in 2022. Thus, out of the 374 files that examined competition violations in this five-year period, 266, i.e. around 71%, concerned claims of violation of Article 4 of the Act. Around 79% of these 266 files addressed claims of Article 4 violations on their own, while another 21% addressed claims of Article 6 violations in addition to Article 4. A look at the types of agreements addressed in the 64 decisions examining claims of Article 4 violations in 2022 shows that 38 of these decisions concerned horizontal agreements between undertakings and 25 decisions involved vertical agreements between undertakings. One decision concerned an agreement that had both vertical and horizontal dimensions.

Table 4: Vertical and Horizontal Agreements under Article 4 of the Act⁸

Year	Horizontal	Vertical	Mixed (H/V)	TOTAL
2018	36	28	1	65
2019	23	18	2	43
2020	31	10	2	43
2021	30	19	2	51
2022	38	25	1	64

Table 5: Negative Clearance Files Finalized

Year	Granted Negative Clearance	Granted Negative Clearance Subject to Conditions	Denied Negative Clearance	TOTAL
2018	9			9
2019	6		2	8
2020	3			3
2021	5			5
2022	4			4

Competition Board took four negative clearance decisions in 2022.

⁸ This Table covers the files included in the first and third columns of Table 3.

Table 6: Finalized Exemption Files

Year	2018	2019	2020	2021	2022
Granted Individual Exemption	18	16	15	9	5
Files under Block Exemption		5	1		3
Granted Individual Exemption Subject to Conditions	3		7	2	4
Files under Block Exemption Subject to Conditions	3			3	
Denied Exemption	4	1	7	3	
Exemption Withdrawn		2			1
Individual and Block Exemption Assessed Together	4	3	1		2
Other	3				
TOTAL	35	27	31	17	15

As shown in Table 6, the number of exemption applications finalized in 2022 was 15. An examination of the distribution of exemption decisions taken by the Competition Board in 2022 according to outcome shows that five of these decisions granted individual exemption to the relevant agreements without conditions, four granted individual exemption subject to conditions, three fell under the scope of block exemption, two evaluated individual and block exemption together, and one revoked the exemption previously granted to the relevant agreement.

Table 7: Merger, Acquisition, Joint Venture and Privatization Files Finalized

Year	Merger	Acquisitions	Joint Venture	Privatization	TOTAL
2018	2	152	56	13	223
2019	1	140	66	1	208
2020	8	150	62		220
2021	5	214	83	7	309
2022	2	160	76	7	245

In 2022, 245 merger/acquisition/joint venture/privatization transactions were finalized. Compared to the previous year, the number of finalized merger/acquisition/joint venture/privatization transactions saw a decrease of around 21%. Similar to the 2018-2021 period, most of these were comprised of merger decisions in 2022 as well. Around 65% of the transactions finalized under Article 7 of the Act in 2022 were acquisitions, with a total of 160 files. Establishment of joint venture transactions had a share of about 31%, with 76 files. In 2021, two mergers and seven privatization transactions were finalized.

As shown in Table 8, the distribution of the decisions taken in 2022 under Article 7 of the Act according to their outcomes reveals that 34 out of the 245 applications received were out of scope/ below threshold. There were 211 applications that did fall under the scope of the act and were subject to authorization, 209 of which were authorized without conditions, and two on a conditional basis. No applications related to merger/acquisition/joint venture/privatization transactions were denied authorization in 2022. In this five-year period, one merger/acquisition/joint venture/ privatization transaction was prohibited in 2020, and 12 transactions were authorized subject to

conditions. In that framework, out of the merger and acquisition transactions that were notified in the relevant five year period and found to be subject to the authorization of the Competition Board, around 99% were authorized without conditions.

Table 8: Outcomes of the Concluded Merger, Acquisition and Privatization Files

Year	Authorized	Authorized Subject to Conditions	Denied	Out of Scope/ Below Threshold
2018	201	4		18
2019	185	2		21
2020	190	1	1	28
2021	277	3		29
2022	209	2		34



Article 40 of the Act no 4054 grants the Board the power to launch an investigation or conduct a preliminary inquiry to decide whether an investigation is necessary, either on its own initiative or in response to the applications submitted. In that framework, in 2022, the Competition Board examined 18 files on its own initiative. The distribution of the 16 files examined on the Board's own initiative according to their types shows that 16 of them concerned claims of Article 4 violations, one concerned claims of Article 5 violation and one claims of Article 6 violation. Thus, similar to the first four years of the relevant five-year period, it may be said that a majority of the files examined on the Board's initiative in 2022 were also comprised of files related to the violations of Article 4.

Table 9: Distribution of the Files Examined Ex Officio

Year	Article 4	Article 5	Article 6	Mixed (4 and 6)	Article 7	Exemption/ Negative Clearance	TOTAL
2018	10			3	1		14
2019	8		1		1		10
2020	8						8
2021	13		2				15
2022	16	1	1				18

Table 10: Fines (TL)*

	Year	Infringements	Mergers / Acquisitions	Exemptions / Negative Clearances	TOTAL
Substantive Fines	2018	349.374.235			349.374.235
	2019	237.674.115			237.674.115
	2020	1.964.045.143			1.964.045.143
	2021	4.229.946.505			4.229.946.505
	2022	1.731.940.315			1.731.940.315
False or Misleading Information/Documents in Applications (Art. 16/1-a)	2018		320.376		320.376
	2019				
	2020		838.656		838.656
	2021				
	2022				
Failure to Notify M&A Acquisitions within Due Time (Art. 16/1-b)	2018				
	2019				
	2020		21.001.468		21.001.468
	2021		1.242.897		1.242.897
	2022				
Providing missing, false or misleading information/ documents under requests for information and/or on-site inspections (Art. 16/1-c)	2018				
	2019	826.106			826.106
	2020	61.468.770			61.468.770
	2021				
	2022	153.622	3.364.785		3.518.407
Prevention or Obstruction of On-Site Inspections (Art. 16/ 1-d)	2018	194.082			194.082
	2019	38.116.077			38.116.077
	2020	2.550.980			2.550.980
	2021	121.038.512			121.038.512
	2022	115.268.236			115.268.236
Relative Administrative Fines (Art. 17)	2018	138.552			138.552
	2019	4.522.657			4.522.657
	2020	151.407.833			151.407.833
	2021	3.392.292			3.392.292
	2022				

* Does not include fines imposed in files which were re-evaluated in response to court decisions and takes into account Articles as amended with the Act no 5728 dated 23.01.2008.

Table 11: Fines Imposed under Articles 4 and 6 of the Act (TL)*

	Year	Files Examined under Article 4	Files Examined under Article 6	Files Examined under Articles 4 and 6	TOTAL
Substantive Fines	2018	19,014.529	330,359.706		349,374.235
	2019	228,733.560	8,940.555		237,674.115
	2020	1,656,837.739	307,207.404		1,964,045.143
	2021	3,453,040.530	296,084.900	480,821.076	4,229,946.505
	2022	1,379,322.246	352,618.069		1,731,940.315
Providing Missing, False or Misleading Information/ Documents under Requests for Information and/or On-Site Inspections (Art. 16/1-c)	2018				
	2019	800.079	26.027		826.106
	2020	61,468.770			61,468.770
	2021				
	2022		153.622		153.622
Preventing or Obstructing On-Site Inspections (Art. 16/1-d)	2018	81.501		112.581	
	2019	4,896.131	33,219.946		38,116.077
	2020	2,550.970			2,550.970
	2021	117,247.394		3,791.119	121,038.512
	2022	115,207.748	60.488		115,268.236
Relative Administrative Fines (Art. 17)	2018	138.552			332.634
	2019	251.262	4,271.395		4,522.657
	2020	75,934.394	75,473.439		151,407.833
	2021	3,392.292			3,392.292
	2022				

* Excluding administrative fines imposed for files re-evaluated in response to court decisions.

Table 12: Fines Imposed in Files Examining Horizontal and Vertical Agreements (TL)*

	Year	Horizontal	Vertical	Mixed
Substantive Fines	2018	9.201.300	9.813.229	19.014.529
	2019	164.392.558	64.341.001	
	2020	60.030.330	1.596.807.409	1.656.837.739
	2021	687.288.455	557.861.439	2.688.711.711
	2022	375.997.540	124.674.058	878.650.648
Providing Missing, False or Misleading Information/Documents under Requests for Information and/or On-Site Inspections (Art. 16/1-c)	2018			
	2019	800.079		
	2020	61.468.770		
	2021		7.133.811	
	2022			
Preventing or Obstructing On-Site Inspections (Art. 16/1-d)	2018	194.082		
	2019	4.896.131		
	2020		2.550.970	
	2021	110.113.582	10.924.930	
	2022	102.279.456	12.928.292	
Relative Administrative Fines (Art. 17)	2018	138.552		
	2019	251.262		
	2020	75.934.394		
	2021	3.392.292		
	2022			

* Excluding administrative fines imposed for files re-evaluated in response to court decisions.

3.5. Training and Internship Activities

Turkish Competition Authority has attached significant importance to its training and internship activities since its establishment. In that framework, the Authority has continued its training activities both within and outside the organization for 25 years, and has been providing internship opportunities since 2003.

In 2022, training was provided to the 19th and 20th term assistant experts who took office in 2022 as well as the other professional staff. In addition and in line with the requests received, training programs were organized for personnel from other public institutions and organizations.

Another activity the Competition Authority has been providing traditionally since 2003 is the internship program for university students, aimed at contributing to the know-how on competition law and practice and increasing interest in this field. In terms of content, these two-week programs are intended to be closer to an intensive training than a conventional internship. In the first week, an overview on Turkish competition law legislation is provided to the students, enriched with the Competition Board decisions. In the second week, the participants take part in a case study based on a hypothetical file. Training under the aforementioned internship programs are provided by the Competition Authority's professional staff. To date, 2,835 undergraduate and graduate students have participated in the internship program at the Authority, 2,363 of which completed their training and received their certificates. In that framework, the "Competition Law Internship Program with Participation Certificate" for university students was organized seven times in 2022 on February 4-25, 2022; September 5-16, 2022; September 26-30, 2022; October 10-14 2022; October 31 - November 4, 2022; November 7-11, 2022 and November 14-18, 2022. A total of 402 university students received their certificates in 2022.

Another activity aimed at university students in 2022 is the "National Internship Program" organized by the Human Resources Office of the Presidency of the Republic, in which the Competition Authority took part as a shareholder. On various dates, six university students took part in the internship program carried out at the Authority under the umbrella of this project. In addition, two university students completed short-term internship at the Authority. From the candidates who applied to the "National Internship Program," two students studying economics interned at the Economic Analysis and Research Department; two students studying translation and interpretation interned at the International Relations and Competition Advocacy Department; and two students studying computer engineering and Computer engineering and electrical and electronics engineering (double major) interned at the IT Department during the summer and fall periods. In addition, one student majoring in computer engineering was given the opportunity to intern at the IT Department, with one more student majoring in Industrial Engineering interning at the Economic Analysis and Research Department. The training and internship activities conducted are included in Table 13.

Table 13: Training and Internship Activities

Date	Subject of the Training	Provider Institution/ Organization
November 05, 2021 March 04, 2022	Training on "examining competition law and policy concepts" for professional staff	Ankara Yıldırım Beyazıt University
January 07, 2022	A training aimed at "Introducing the Stakeholder Institutions and Organizations" to the Candidate Assistant Trade Specialists at the Ministry of Trade.	Competition Authority
January 10, 2022 February 25, 2022	Forensic IT Training for the 18th Term Professional Staff	Competition Authority
February 14-25, 2022	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
February 28, 2022 March 04, 2022	Training on "Machine Learning and Data Science"	Bilkav Eğitim Danışmanlık AŞ
March 07, 2022 May 13, 2022	Systems Training for the 18th Term Professional Staff	Infopark Bilgi Teknolojileri
March 10, 2022	Within the scope of the Basic Training, Preparatory Training and Candidate Civil Servant Training including Internship programs under the relevant legislation, provision of a lecture to introduce the Competition Authority to the Assistant IT Experts who took office at the Information and Communication Technologies Authority as well as to the other personnel who were recently employed.	Competition Authority
March 16, 2022 August 26, 2022	Basic Training and Preparatory Training Programs for the Authority staff who took office as 19th Term Assistant Experts	Competition Authority
May 12, 2022 August 18, 2022	Training on "examining competition law and policy concepts" for professional staff	Ankara Yıldırım Beyazıt University
May 12-26, 2022	Competition Set-up and Pricing Profitability in Business Enterprises	Participation Banks Association of Türkiye
August 29, 2022 September 27, 2022	Forensic IT Training for the 19th Term Professional Staff	Competition Authority
September 05-16, 2022	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
September 14, 2022	Presentation on the Competition Authority, made at the Radio and Television Supreme Council to serve as a guide for any potential cooperation between the institutions	Competition Authority
September 15, 2022	Competition and Concentrations in the Broadcast Sector Training	Competition Authority
September 19, 2022 October 22, 2022	Introduction to Photography Training	AFSAD
September 26-28, 2022	Mobile Forensic Examination Software Training	Online

Date	Subject of the Training	Provider Institution/ Organization
September 26-30, 2022	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
October 10-14, 2022	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
October 24, 2022 December 19, 2022	Stata Applied Panel Data Econometrics and Causal Impact Analysis	TOBB University of Economics and Technology
October 24, 2022 February 15, 2023	Basic Training and Preparatory Training Programs for the Authority staff who took office as 20th Term Assistant Experts	Competition Authority
October 30, 2022 December 30, 2022	Systems Training for the 19th Term Professional Staff	Infopark Bilgi Teknolojileri
October 31, 2022 November 04, 2022	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
October 31, 2022 November 04, 2022	Windows Server + Powershell Training	Infopark Bilgi Teknolojileri
November 07-11, 2022	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
November 14-18, 2022	Competition Law Internship Program with Participation Certificate for university students	Competition Authority
November 14-18, 2022	Active Directory + Windows Networking Training	Infopark Bilgi Teknolojileri
November 23, 2022	Lecture at the Ministry of Trade's Candidate Assistant Trade Expert Training Program explaining the legislation of the Competition Authority	Competition Authority
November 28, 2022 December 16, 2022	Cyber-security Training for the 19th Term Professional Staff	Private Sector
December 12, 2022 March 17, 2023	Introduction to Photography Training	AFSAD
December 14, 2022	Lecture on "Investigation and Research Procedures in Competition Infringements" in the seminar to be held during the same-titled week of the Competition Law course at the Atılım University.	Competition Authority
December 26-30, 2022	Exchange Server Training	Infopark Bilgi Teknolojileri
Year-round	Participation in the regular meetings held by the Tax Council of the Ministry of Treasury and Finance	Ministry of Treasury and Finance
Year-round	Foreign language training	Various Private Classes/Universities

3.6. Activities of the Legal Advisor's Office

In accordance with Article 55.1 of the Act no 4054, actions for annulment concerning the final decisions of the Board, administrative measures and administrative fines were brought before the Council of State as the court of first instance until 2012. The 13th Chamber of the Council of State was charged with handling the aforementioned actions, but an amendment made in 2012 appointed Ankara Administrative Courts as the court of first instance. An examination of the actions brought against the Board decisions show that most of these were concerning the final decisions taken as a result of investigations.

Table 14: List of Actions Brought For and Against the Authority between 1997 and 2022⁹

Nature of the Board Decision	Ongoing	Concluded	General Total
Investigation	219	1144	1363
Preliminary Inquiry	64	257	321
First Examination	3	86	89
Appeal of Fines	27	64	91
Mergers/Acquisitions	11	48	59
Privatization		33	33
Exemption	9	55	64
Interim Measure	4	11	15
Periodic Fine	8	14	22
Request of Information and Documents	2	26	28
Annulment of Tacit Rejection	2	10	12
Missing Documents during On-the-Spot Inspections	1	8	9
Against Notification	1	6	7
Joint Venture	1	7	8
Negative Clearance	3	6	9
Withdrawal of the Exemption		2	2
Article 42/2	28	66	94
Article 5/4	21	9	30
Filing Lawsuit	2		2
Other Technical Lawsuits	4	10	14
Interim Measure Periodic Fine		1	1
Appeal of Board Decisions	16	9	25
Right to Access the File	17	16	33
Nullity*		1	1
Intervening Party*		1	1
Debt Enforcement*	73	416	489
Lawsuits Related to Other Administrative Acts*	68	307	375
Nullity Suits*	75	249	324
Lawsuits Related to Other Criminal Acts*	3	11	14
TOTAL	662	2873	3535

* These actions are not directly related to professional subjects but are continuations of actions concerning professional decisions or other actions

⁹ Decisions annulled by the Council of State and taken as a result of a re-evaluation of the files by the Board were not included in the tables in order to prevent duplication.

Table 15: List of Actions Brought Against the Authority Decisions in 2022

Nature of the Board Decision	Ongoing	Concluded	General Total
Investigation	85	4	89
Acquisitions	5		5
Preliminary Inquiry	15		15
Interim Measure	1		1
Periodic Fine	1		1
Article 42/2	4		4
Article 5/4	5		5
Exemption	1		1
Exemption/Negative Clearance	1		1
Appeal of Fines	4		4
Request of Information and Documents	1		1
Nullity Suits*	23	1	24
Appeal of Board Decisions	2	1	3
Right to Access the File	5		5
On-site Inspection	10	1	11
Debt Enforcement*		4	4
Other Technical	2	1	3
Lawsuits Related to Other Administrative*	55	2	57
Total	220	14	234

* These actions are not directly related to professional subjects but are continuations of actions concerning professional decisions or other actions.

Table 16: Distribution of Actions Finalized between 2018 and 2022 According to Outcome

Court Decision	2018	2019	2020	2021	2022
Against the Authority	14	6	24	8	16
For the Authority	71	60	124	40	111
Other*	12	4	7	6	12
Total	97	70	155	54	139

* The "Other" entry includes those cases where the action was considered unfiled or the petition was rejected, as well as dismissals for non-jurisdiction, partial acceptance and partial dismissals, and cases where a decision was not taken due to waiver of claims or other reasons.

Table 16 includes information on how the actions related to professional matters were concluded in the 2018-2022 period. Accordingly, among the actions related to professional subjects finalized in that year, the percentage of those resulting in the Authority's favor was 73% in 2018, 86% in 2019, 80% in 2020, and 74% in 2021. This ratio was 80% in 2022, with 111 out of a total of 139 cases having been finalized in favor of the Authority.

3.7. Regulatory Activities

The regulatory activities carried out in 2022 are listed below.

3.7.1. Regulations That Took Effect in 2022

The update concerning the minimum limits of the fines to be imposed in 2022 was put into force with the “Communiqué no 2022/1 Increasing the Lower Limit of the Administrative Fines Specified in Article 16.1 of the Act no 4054 on the Protection of Competition, to Be Valid until 31.12.2022”.

Amendments were made to some secondary legislation in 2022. Regulations that were amended are listed below:

- Communiqué no: 2022/2 Amending the Communiqué no 2010/4 Concerning the Mergers and Acquisitions Calling for the Authorization of the Competition Board,
- Communiqué no 2022/3 Amending the Communiqué no 2013/2 on the Procedures and Principles to be Pursued in Pre-Notifications and Authorization Applications to be Filed with the Competition Authority in order for Acquisitions via Privatization to Become Legally Valid
- Regulation Amending the Regulation on the Settlement Procedure Applicable in Investigations on Agreements, Concerted Practices and Decisions Restricting Competition, and Abuses of right Position,
- Directive on the Procedures and Principles of On-Site Inspections,
- Legislation on Concentration Control.

3.7.2. Ongoing Regulation Work

The work on the Digital Markets Legislation has been ongoing.

3.8. Activities of the Economic Analysis and Research Department

3.8.1. Activities Related to Examinations

In 2022, many numerical/economic analyses were conducted by the Competition Authority in various sectors within the framework of investigations, merger and acquisition examinations and sector examinations, taking advantage of the most recent techniques used in competition economics literature. Numerical methods including difference statistical significance tests, regression analyses, proportion analyses, and time series econometrics were used in the assessments aimed at establishing whether Articles 4 and 6 of the Act were violated. In addition to preparing economic opinions on files, the staff of the department also directly took part in various files as rapporteurs, including the investigation launched on some undertakings in the positions of producers/suppliers and retailers operating in the fast moving consumer goods sector, the results of which were shared with the public on 21.12.2022. Moreover, qualitative and quantitative analysis support was provided for the ongoing legislative work. Significant sectors such as fast moving consumer goods retailing, platform services,

e-commerce, food, cement and fertilizers are among the sectors where the relevant examinations took advantage of the numerical analyses conducted.

3.8.2. Impact Analysis Report

Measuring the monetary effects of the decisions taken by competition authorities on the consumer help monitor institutional performance under the principles of transparency and accountability, and it also serves an importance purpose in that it clearly shows the role competition law plays in protecting the national economy and consumer welfare. To that end, the Authority started to publish impact analysis reports in 2017, and these reports are still being updated and released to the public at regular intervals. In fact, this study was most recently renewed with an aim to estimate the impact of the decisions taken by the Competition Board in 2021-2022 on consumer welfare. In the Impact analysis report, prepared in consideration of the OECD recommendations as well as the similar studies by various competition authorities around the world, the benefit of the Authority activities to consumers for the relevant period was estimated to be at an average of 26.55 billion TL (1.6 billion USD) annually under a conservative approach, and at 67.32 billion TL (4.06 billion USD) according to the OECD methodology, all with December 2022 prices. In light of the calculations above, the benefit provided to the economy is 82.06 times the average annual budgetary expenses of the Authority in the relevant period according to the conservative calculation, and it is around 208.07 times the budgetary expenses according to the calculation based on the OECD methodology.

Constituting a significant activity of competition advocacy before the stakeholders, it is planned that the impact analysis studies will continue biennially.

3.8.3. 2022 Mergers and Acquisitions Overview Report

The 2022 Mergers and Acquisitions Overview Report addresses the merger/acquisition and privatization transactions examined and concluded in 2022 among those notified to the Competition Authority, and aims to summarize the developments with relation to mergers and acquisitions in the relevant year. The Report is intended as one of the significant data sets in terms of the investment climate in Türkiye. The report in question makes the following main observations concerning mergers and acquisitions.

In 2022, a total of 245 merger, acquisition and privatization transactions were notified to the Competition Authority. In 82 of these transactions, the target companies were founded in accordance with Turkish laws. The notified transaction value was around 72.2 billion TL for mergers and acquisitions where the target company was based in Türkiye. When privatizations are included, the total transaction value adds up to 86.2 billion TL.

The total transaction value of the mergers and acquisitions where all of the parties are companies based in Türkiye was around 25 billion TL. Foreign investors made investments in Turkish companies in 36 separate transactions. In 2022, investors based in the Netherlands and United Arab Emirates were at the top of the rankings in transactions involving target companies based in Türkiye, with five transactions each. Total projected foreign investment involving mergers and privatizations where the Turkish companies were being transferred was 43 billion TL. In 2022, the highest number of transactions as well as the highest value transaction in Türkiye in mergers and acquisitions were both in the field of "production, transmission and distribution of electricity".

Three transactions were taken under final examination in 2022. Only one of the aforementioned transactions was authorized, and the examination process is currently ongoing for the others. In the same year, the Competition Authority decided on the merger and acquisition transactions notified within an average of 15 days after the date of notification.

3.8.4. Training for the Professional Staff

To raise institutional capacity, training programs aimed at the professional staff continued in 2022, as well. In this framework, department personnel attended academic programs inside the Authority as well as abroad on panel data econometrics, causal impact analysis and competition economics, and endeavored to reflect their experience in the field to the files they were in charge of as well as to their academic studies. In addition to competition economics and micro-econometrics, new training programs are planned in other fields such as advanced time series econometrics, data analytics and machine learning.

3.9. Activities in the Field of Information Technologies

3.9.1. E-Government Application Portal

Work on improving the services offered through the e-government application portal continued. At the same time, receiving Settlement Applications was added to the services the Authority provides through the e-government website in 2022. In this context, the following table includes numerical information on the online applications made in 2022.

Table 17: E-Government Application Portal Statistics

Type of Request	Total Number of Applications
Requests for Additional Time for Written Pleas in Investigations	109
Applications to Access the File Submitted to the Competition Authority	29
Request for Attending the Hearing before the Competition Authority	100
Merger & Acquisition Applications	210
Negative Clearance/Exemption Applications	21
Third Party Objections or Applications to Provide Information in Merger/Acquisition Applications	8
Leniency Applications	2
Submission of First, Second and Third Written Pleas by the Parties in Investigations	231
Responses of the Parties or Third Parties to the Requests for Information in All Types of Files or Studies	1384
Request for the Re-evaluation of the Board Decision under Article 11 of the Administrative Judicial	9
Competition Infringement Applications	532
Commitment Applications (Communiqué no 2021/2)	50
Settlement Applications	66
TOTAL	2751

The numbers concerning the settlement applications received in the second half of 2022 are as follows.

Settlement Details	Number of
Application to Initiate the Settlement Process	41
Submission of the Settlement Text	18
Explanations on the Remainder of the Settlement Process and on	1
Other	6

3.9.2. IT Security

- In order to manage, monitor and protect institutional information and assets, the Authority continued to use the *TSE/ISO 27001 Information Security Management System* (Bilgi Güvenliği Yönetim Sistemi - BGYS), which is a documented management system based in the risk management approach that aims to ensure operability and continuity and for which the Authority was granted a certificate for a period of three years in 2020. In that framework, the Authority successfully passed the “second annual interim audit,” performed by the Turkish Standards Institute in March.
- Necessary actions were taken to ensure the physical and cyber security of the information systems. To that end, various products installed to
 - Prevent harmful activities and effects from the online environment,
 - Ensure the security of the Authority’s website and the outward-facing applications,
 - Identify and prevent the harmful activity attempts throughout the intranet,
 - Prevent harmful software from accessing the servers and clients,
 - Prevent access to harmful websites,
 - Prevent access of unauthorized computers and mobile devices from accessing the intranet,
 - Scan the source codes of software for security flaws,
 - Scan the server operating systems for security flaws and make any required updates,

were actively used, managed and re-configured when necessary, with the relevant logs being maintained and assessed regularly.

- In order to make sure that the necessary services are not interrupted in case the Authority’s IT infrastructure becomes unusable or in case data is lost for various reasons, the Disaster Recovery Center that was established at a remote data center was maintained.
- The Systems Room housing a significant portion of the IT infrastructure was made physically secure, with the required air-conditioning and active protection against fire hazards ensured.
- A number of phishing attack drills were conducted, using the software procured to increase the awareness of the personnel about these types of attacks which trap users by fake but

convincing e-mails. The results of these drills were evaluated to provide online training to the personnel concerned.

- A professional IT security company was hired to offer their infiltration testing services, and the results of the testing were assessed to implement actions that would maximize the level of cyber-security.
- The Authority's website and other services that are accessible from outside were constantly scanned and controlled over the internet so as to maximize their cyber-security.
- An e-mail security application was configured and launched to ensure e-mail security and prevent dangers such as harmful applications, links, etc. that could reach the end user via e-mail.
- Necessary steps were taken to identify any activity that could pose cyber-security threats for Authority computers and servers, to collect the relevant data and prepare a response. The necessary arrangements were made to ensure that threat-evaluation reports are produced by monitoring and collectively assessing these data over a long period of time.
- Organizational IT security was increased by implementing a system for monitoring and user-authentication for scanning, printing and copying jobs, integrated to the copiers in common use. The file management and archiving system used by the Authority personnel was improved.
- The relevant scanning procedures were regularly conducted to reveal any potential cyber security flaws in the software and operating systems used in the IT infrastructure, and any flaws identified were fixed.
- Systems used to provide cyber-security were periodically tested.
- The required access and authorization operations were performed for databases and shared areas.
- Institutional data were backed-up regularly.

3.9.3. Activities for Providing IT Infrastructure to Authority Events

Infrastructure and application support were provided to the

- Board Meetings,
- Online international organizations,
- Online internship programs
- Online training programs, and
- Authority events

carried out in 2022.

3.10. International Relations Activities

3.10.1. European Union (EU)

Since Türkiye is a EU candidate country, the Competition Authority contributes to the 8th Chapter on Competition Policy of the Türkiye Progress Report, prepared annually by the EU Commission. In that framework, the Authority's contribution to the relevant chapter of the 2021 Türkiye Progress Report was prepared and shared with the relevant parties in mid-2022. The published Report notes that the competition legislation in Türkiye is largely in compliance with the EU, emphasizing the Competition Authority's administrative and legislative independence, its sufficient institutional capacity and its efficiency in application.

The Authority also takes part in the Customs Union Joint Committee (CUJC) meetings, which addresses the issues related to the functioning of the Customs Union established with the Türkiye-EU Association Council's Decision no 1/95. A presentation on the recent developments in the field of competition policy was made during the online 38th Meeting of the CUJC, held on October 26-27, 2022.

Moreover, the Authority also contributes to the meetings of the Sub-Committee no. 2 on Internal Market and Competition, which was established with the Association Council Decision no 3/2000 in order to monitor the developments related to the priorities of the accession partnership and alignment of the legislation. Accordingly, representatives from the Authority attended the preparatory meeting of the Sub-Committee no. 2 on Internal Market and Competition held on November 17, 2022, as well as Sub-Committee no. 2 on Internal Market and Competition's online meeting hosted by the EU Commission on December 15-16, 2022. As a candidate country for the EU, Türkiye both benefits from the Instrument for Pre-Accession Assistance (IPA), which includes financial assistance for candidate countries, and participates in the Union Programs and Agencies which were established to encourage cooperation between candidates on EU policies. In accordance with the Presidential Circular no. 2019/20, the EU Programs Council held on February 4, 2020 under the coordination of the Directorate for EU Affairs decided that Working Groups should be established for each EU Program that concern the public institutions during the period of 2021-2027. Within that framework, the TCA is part of the "Single Market Working Group".

3.10.2. Multilateral Relations

3.10.2.1. Organization for Economic Co-operation and Development (OECD)

Attendance to the *"Hub-and-Spoke Cartels Workshop"* held in Riga, Latvia in cooperation by the OECD-Competition Council of the Republic of Latvia on May 11-12, 2022.

Participation in the June Competition Week meetings of the OECD Competition Committee, Working Party No. 2 on Competition and Regulation and Working Party No. 3 on Cooperation and Enforcement, held in Paris on June 20-24, 2022.

Within the framework of the OECD June Competition Week, the Authority was asked to make a presentation at the session titled *"Country Developments on Regulations in Digital Sectors"*, held

on June 23, 2022, with reference to our conclusions in our E-Marketplace Sector Report, as well as our recent work on the digital sector. Representatives from the authority participated in the session concerned over the internet to make a presentation. Moreover, the Authority also made written contributions to the OECD Committee and the connected Working Party No. 2 on Competition and Regulation and Working Party No. 3 on Cooperation and Enforcement., held in Paris on November 28-20, 2022, directly followed by the “Global Competition Forum,” held on December 1-2, 2022.

3.10.2.2. United Nations Conference on Trade and Development (UNCTAD)

Representatives from the Competition Authority attended the sixth “Intergovernmental Group of Experts on Competition Law and Policy” meeting between July 18-19, 2022 and the twentieth “Intergovernmental Group of Experts on Competition Law and Policy” meeting between July 20-22, 2022, both of which were organized by the United Nations Development Program (UNCTAD) in Geneva. Board Member Ayşe Ergezen shared the developments in Türkiye during the session titled “The Interplay between Competition, Consumer and Data Protection Policies in the Digital Era.

3.10.2.3. International Competition Network (ICN)

ICN is a platform created by competition authorities to facilitate mutual exchange of information, share best practices, and build opinions in the field of competition law and policy. One of the founders of the ICN, the TCA is currently in the steering group of the organization and serving as the co-chair of Subgroup 1 of the Cartel Working Group, titled Legal Framework.

As part of our duties as the Co-chair of the ICN Cartel Working Group, the Authority organized the following online meetings under ICN: “Leniency Applications” on January 26, 2022, “Hub-and-Spoke Cartels” on March 1, 2022, and “Crises Cartels” on April 19, 2022.

Moreover, the Authority :

- Participated in the “ICN 2022 Merger Workshop” hosted by the Brazil Administrative Council for Economic Defense (CADE), which was organized in Salvador/Brazil between March 29 - April 1, 2022 with an announcement made on behalf of the ICN Merger Working Group co-chairs,
- Attended the “2022 ICN Annual Conference” organized by the German Bundeskartellamt in cooperation with the ICN in Berlin between May 4-6, 2022,
- Attended the “2022 ICN Cartel Workshop” that was hosted by the New Zealand Trade Commission in Auckland/New Zealand between December 6-8, 2022 over the internet,

Responded to the surveys and information requests sent by the ICN Working Groups. In that context, comprehensive information concerning the cartel investigation process in Türkiye and the legal tools used in that process was provided through the document titled “Cartel Enforcement Template, prepared by the Cartel Working Group of the ICN.

3.10.2.4. Istanbul Competition Forum (ICF)

Türkiye has been endeavoring to serve as a leader to the countries in the region in every respect, and as an outcome of this goal in the field of competition law and policy, has created an organization with high levels of participation under the name ICF.

The goal of ICF is to provide assistance to the countries in the same region in the field of competition law and policy, and to improve cooperation between these countries. UNCTAD's Competition and Consumer Policies Branch have made contributions to the effort, in order to ensure that ICN reaches its intended goals.

The Authority was unable to organize the annual ICF meeting for 2022, but the preparations for an in-person meeting with extensive participation in are in the planning stages for March 2023.

3.10.2.5. International Training Seminars

Within the framework of the "*16th Competition and Regulation European Summer School and Conference*" (CRESSE), organized between June 25 and July 7, 2022 in cooperation with the OECD and various institutes of universities and academic organizations operating in the field of competition law and policy, the Authority attended the seminars on the Quantitative Analysis of Competition Policy, Techniques and Methods of Scanning for Cartels, and Econometric Techniques for Competition Analysis, held between 1 - 4 July, 2022.

3.10.2.6. Other International Meetings

The other international meetings attended by the Authority personnel are as follows: the "*70th Annual Spring Meeting*" organized by the American Bar Association (ABA) Antitrust Division in Washington D.C./USA on April 06-08, 2022; the conference titled "*Bringing Data, Technology and Analytics to Competition and Consumer Protection*," organized by the UK Competition and Markets Authority (CMA) in London on June 15 - 17, 2022, on new and evolving challenges in the tech industry and digital markets, and how competition and consumer agencies are developing technical capabilities and expertise to tackle these challenges; the "*Competition Forum and International Conference*" held in Athens on June 26, 2022; the conference titled "*25 Years of Challenges and Success*," organized by in Zagreb on September 28, 2022, on the occasion of the 25th anniversary of the Croatian Competition Authority; the "*Eurasia Anti-Monopoly Forum VIII*" organized by Kazakhstan's Agency for the Protection and Development of Competition on October 6 - 7, 2022; the seminar on "*State Aids*" organized by the European Commission's General Directorate of Competition (DG-COMP) on October 10 - 11, 2022 for those states under the scope of the Expansion and for neighboring countries; the 7th International Conference titled "*Antimonopoly Policy: Science, Practice and Training*" organized by the Federal Anti-monopoly

Service of the Russian Federation on November 9 - 10, 2022; the international conference on *"Digital Transformation: Between Regulation and Competitiveness,"* organized by the Competition Council of the Kingdom of Morocco in Marrakech on November 9-10, 2022; and the *"International Competition and Consumer Rights Conference"* organized by the Georgian National Competition Agency on November 16 - 17, 2022, which included the titles Competition Law, Mechanisms for Protecting Consumer Rights, and Activities of Regulatory Authorities.

3.10.3. Bilateral Relations

Within the framework of the free trade agreements signed by Türkiye in the course of its trade relations, the Authority has been attending the pre-agreement negotiations managed by the Ministry to provide its views and suggestions with relation to competition law. As part of the negotiations related to the Comprehensive Economic Partnership Agreement (CEPA) negotiations between Türkiye and the United Arab Emirates, representatives from the Authority attended the video-conference meetings on *"Small and Medium Sized Enterprises"* and *"Competition"* chapters, hosted by the Ministry of Trade, and contributions were made to the preparation of the competition-law related sections of the draft agreement text.

The Free Trade Agreement (FTA) signed in order to re-organize trade between Türkiye and the United Kingdom, which is now considered a third country following Brexit, entered into force on January 1, 2021. As per the provisions of the agreement, a review of the FTA was foreseen at the end of the second year to bring it in line with recent needs and to eliminate any failures in practice. In that framework, representatives from the Authority attended the review meeting with the United Kingdom under the *"Competition and State Aids Working Group,"* hosted by the Ministry of Trade. In the meeting, representatives of the Authority opined that the provisions in the FTA on competition law and policy be maintained and it was proposed to the UK Competition Authority to sign a bilateral memorandum of understanding (MoU) to ensure alignment of practice and to facilitate coordination between the two countries.

Within the framework of the Project on Capacity Building of the Republic of Azerbaijan with relation to the Accession Negotiations to the World Trade Organization (WTO) and Other Measures on Trade, five representatives from the Azerbaijani Ministry of Economy conducted a study visit to Türkiye between May 10 - 13, 2022, during which they also visited the Competition Authority.

A Memorandum of Understanding was signed between the Competition Authority and the Competition Board of Libya on September 9, 2022. Meanwhile, there is ongoing correspondence with Pakistan, Mongolia, Azerbaijan and Gambia.

3.11. Activities within the Framework of Competition Advocacy and Institutional Relations

3.11.1. Sector Inquiries

Besides the power of supervising markets granted to the Competition Board by the Act no 4054, among the most important functions of the TCA in terms of competition advocacy are the studies known as sector examinations, aimed at identifying and solving structural and/or behavioral competition issues related to a part or whole of a specific sector or market.

Within that framework, as of the end of 2022, there are ongoing sector inquiries on

- "Online advertising"
- "Pharmaceuticals"
- "Fuel"
- "Container transportation via liners and container port services market"
- "Automotive," and,
- "Fast Moving Consumer Goods Retailing. Sector inquiries completed by the Turkish Competition Authority in the last five years are listed below.

Completed Sector Inquiries	
Hazelnut	2018
Expo Business	2018
Music	2019
Financial Technologies in Payment Services	2022
Fresh Fruit&Vegetables	2022
E-Marketplace Platforms	2022

Ongoing Sector Inquiries in 2022	
Online Advertising	
Pharmaceuticals	
Fuel	
Container Transportation via Liners and Container Port Services Market	
Automotive	
Fast Moving Consumer Goods (FMCG) Retailing Sector	

Table 18: Sector Inquiries Launched/Ongoing in 2022

Sector under Inquiry	Reason for the Inquiry	Planned Completion Date
Fuel Sector	The fuel sector inquiry is launched in response to the need to identify any existing or potential market failures in the fuel sector and suggest solutions for these problems. The relevant sector inquiry intends to clarify the structure and functioning of all of the stages of the fuel market as well as the competition problems in the market, and to make suggestions for any steps that can be taken with a proactive approach in order to establish effective competition in the market concerned.	2023 First half
Online Advertising Sector	The Online Advertising Sector Inquiry was launched in order to closely monitor the national and international current developments in the online advertising field, which gathered significant momentum in the recent years as a result of rapid improvements in IT technologies and the widespread use of the internet, so as to determine any behavioral and/or structural competition problems in the sector and develop solutions/policy suggestions aimed at dealing with these problems.	March 2023
Pharmaceuticals Sector	The pharmaceuticals sector inquiry aims to scrutinize the structure and functioning of the sector in order to identify the factors affecting competition in the sector, and to suggest solutions for dealing with competition problems in the sector.	June 2023
Container Transportation Via Liners and Container Port Services Market	Marine transportation sector can become the subject of competition law due to the relationships between liners, ports and other service providers. Particularly in the recent period, the disarray that emerged in the liner transportation fees and its relation to the problems in the global market brought to the forefront by the COVID-19 pandemic required a detailed examination of the structure and functioning of the sector. Consequently, the sector inquiry aims to provide a better understanding of the dynamics of liner transportation as well as its integrated supplementary market of port services.	October 2023
Fast Moving Consumer Goods (FMCG) Retailing Sector	The sector inquiry into the FMCG retailing sector was launched in order to make a correct competitive analysis of the FMCG retailing market that was shaped through the changes of the recent years and to develop policy suggestions concerning any potential problems that might arise due to the buyer power emerging as a result of the increasing concentration in the sector, and the report preparation stage of the examination has been completed.	2023
Automotive Sector	The motor vehicle sector inquiry was launched with an aim to identify the factors affecting competitive market structure in the automotive sector and the structural problems therein, and to provide suggestions for their solution. The goal is to address the supply and provision problems of the sector, taxation and pricing policies for the vehicles, distribution channels and after-sales services in the sector, and digitalization/electric vehicles in light of recent technological developments.	2023

3.11.2 Symposiums, Conferences, Panels and Meetings Organized

The TCA attaches great importance to making theoretical and practical contributions to competition law, reaching different audiences to increase competition law awareness, and transferring know-how. Thus, in order to introduce and evaluate the Financial Technologies in Payment Services Inquiry Report prepared by the Authority, a Financial Technologies in Payment Services Panel was organized in on January 11, 2022 with the contributions of Merkezi Kayıt Kuruluşu A.Ş. (Central Registry Agency - MKK), thanks to the exiting cooperation between the Competition Authority and the MKK.

3.11.3 Other Activities

In addition to the activities listed above:

- In 2022, a total of 16 written questions from the Grand National Assembly were received through the related ministry and were answered either directly or in coordination with the relevant department.
- Opinion requests received from the Permanent Turkish Representation at the OECD, various ministries, other public institutions and from the Office of the Legal Adviser were answered either directly or in coordination with the relevant departments.
- Translation/Interpretation needs of the departments were met within the bounds of possibility.
- Two promotion videos were prepared in order to inform the citizens about the vision and mission of the Turkish Competition Authority via social media channels.
- Surveys, information, document and interview requests from international associations and/or publications were addressed. As an example, in that context, the annual GCR Rating Survey was completed within 2022.
- The Authority attended the “Career Day” event of the İstanbul Medeniyet University’s Faculty of Law at the Göztepe Campus on February 23 - 24, 2022.
- A presentation was made at the “Career at Independent Regulation Authorities” event, organized online by the Özyeğin University Sectoral Orienteering Group on March 14, 2022.
- On May 17, 2022, the Authority took part in the “Competition Law İzmir Symposium” organized by İzmir Democracy University.
- Within the framework of the preparations for WTO’s Trade Policy Review Meeting for Türkiye, which will be held on March 8 - 10, 2023, the Authority is participating in updating the information and data included in the document forwarded by the WTO Secretariat and in the review process (during 2022), within the bounds of its duties and jurisdiction. A letter signed by the President of the Authority Birol KÜLE celebrating Eid-el Fitir was sent to the competition agencies of 24 Islam countries.
- Some recent important Competition Board decisions were translated into English and published on the Authority’s website.
- The Authority attended the “Global Innovation Index Action Plan Assessment Meeting” held on April 8, 2022.

3.12. Publications

3.12.1. Competition Journal



Beginning publication in 2000, the Competition Journal is a refereed periodical published semiannually by the Turkish Competition Authority. The Competition Journal includes original articles in Turkish or English in the fields of competition law, policy and industrial economics, and three issues of the journal were published in the months of February, May and October in 2022, each with three articles.

Articles submitted to the e-mail address rekabetdergisi@rekabet.gov.tr for publication in the Competition Journal are first assessed for article writing rules and then forwarded to two expert referees for evaluation.

For each article published in the Competition Journal, a royalty payment is made and 10 journals are sent to the author, free of charge.

3.13. Opinions Rendered to Public Institutions and Organizations

Another activity conducted by the TCA within the scope of its competition advocacy work is rendering opinions to public institutions and organizations. The opinions rendered under this framework may concern draft regulation prepared by the relevant institution or organization, or they may concern other activities of public institutions and organizations. The table listing the opinions rendered by the TCA to public institutions and organizations in 2022 is below.

Table 19: Opinions Rendered to Public Institutions and Organizations

Subject of the Opinion	Number of Opinions
Draft Legislation	6
Other Activities	12
TOTAL	18

3.14. Strategic Plan Performance Monitoring and Assessment Activities

Strategic Plan performance monitoring and assessment activities are carried out under the Act no 5018.

The Strategic Plan for 2019-2023 determines the goals and targets of the Authority based on a total of four axes. Respectively, these are the application of the competition law, competition advocacy, policy development, and institutional capacity. Within those four axes, the improvements to be made during the duration of the Plan and the goals and targets which would realize those improvements are identified (see Section 2.1. Goals and Targets).

The monitoring and assessment process aims to provide institutional learning, and thereby ensure constant optimization in the activities. It is of vital importance for the success of the Plan to periodically monitor and assess the degree of achievement of the institutional goals and targets set out in the Strategic Plan. Strategic plans serve as a roadmap for public institutions to find better and more rational solutions to their problems within the dynamic ecosystem in which they exist, and they must be reviewed in light of the information acquired as a result of the monitoring and assessment activities. Monitoring and assessing a strategic plan is an indispensable element for both the successful implementation of the said plan, and in terms of compliance with the principle of accountability.

Monitoring is an iterative process in which qualitative and quantitative data is gathered and analyzed constantly and systematically, both before and during the implementation, in order to keep track of the progress made in comparison to the goals and targets. Outcomes of the goals and targets are frequently monitored via performance indicators and periodically reported for the evaluation of the administrators. Carefully carried out by the Competition Authority as well, the monitoring process allows the Authority to evaluate whether the route set out in the Strategic Plan is being followed. The assessment, on the other hand, is a detailed examination conducted to see to what extent ongoing or completed activities helped in reaching the goals and targets and to what extent they contributed to the decision-making process. To that end, strategic plans which are monitored periodically may be revised after the evaluation, if necessary.

In that context, the Competition Authority conducted an integrated assessment of the activities carried out in 2022 within the framework of the 2019-2023 Strategic Plan, based on the goals and targets determined in line with the strategic axes. During the 2022 monitoring and assessment period, the performance score of the Competition Authority has been 100% for every goal and target under each axis of the Strategic Plan.

3.15. Thursday Conferences

Table 20 lists the "Thursday Conferences" organized by the TCA in 2022.

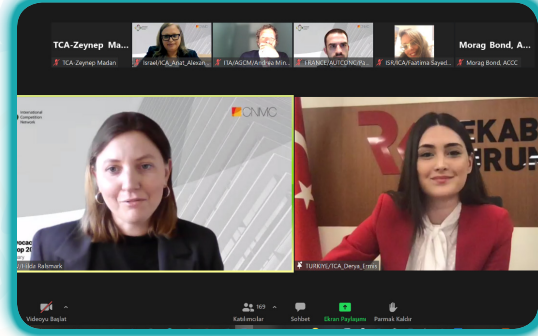
Table 20: Thursday Conferences

Date/Venue	Relevant Institution/Person	Event Subject / Participant
October 20, 2022, ANKARA	Competition Authority	"Importance of Ethics in Management" Prof. Ruşen KELEŞ
December 01, 2022, ANKARA	Competition Authority	"Recent Legal Matters", Akın GÜRLEK, Deputy Minister, Ministry of Justice
December 29, 2022, ANKARA	Competition Authority	"Turkish Economy and Business Opportunities", Dr. Hakan YURDAKUL, Member, Presidential Economic Policies Council



The Authority organized the “Financial Technologies in Payment Services Panel” on January 11, 2022. The panel was launched with the opening remarks of the Authority President, Birol KÜLE.

The Authority contributed to the ICN Competition Advocacy 2022 Workshop, held on February 9-10, 2022, by presenting its “Financial Technologies in Payment Services Inquiry Report,” which was recently shared with the public.



A presentation introducing the Authority was made at the “İstanbul Medeniyet University Career Days” on March 14, 2022.

The 19th Term Assistant Competition Experts took office with a ceremony held on March 16, 2022.



The 19th Term Assistant Competition Experts met with the Authority President Birol KÜLE on March 21, 2022.

A presentation introducing the Authority was made at the “Özyeğin University Career Days” on March 14, 2022.



Representatives from the Authority attended the Mergers and Acquisitions Workshop, organized by the International Competition Network's (ICN) Mergers and Acquisitions Working Group in Brazil on March 29-31, 2022.

Representatives from the Authority attended the 2022 ICN annual meeting, hosted by the German Bundeskartellamt in cooperation with the ICN, held in Berlin on May 4-6, 2022.



A committee representing the Azerbaijan Competition Authority under the Ministry of Economy of the Republic of Azerbaijan met with the Authority President Birol KÜLE in a study meeting held at the Authority premises and received information on the Authority's work.



Vice President of the Competition Authority Atty. Dr. Faik Metin TIRYAKI made the opening speech of the 3rd Regular General Assembly of the Association of Payment and Electronic Money Institutions of Türkiye (Türkiye Ödeme ve Elektronik Para Kuruluşları Birliği – TÖDEB) on March 18, 2022.

The Authority sent representatives to the workshop organized in cooperation by the OECD and the Competition Council of the Republic of Latvia in Riga/Latvia on May 11-12, 2022.



The Authority attended the “Competition Law İzmir Symposium” organized by the İzmir Democracy University on May 17, 2022.

Representatives attended the CMA Data, Technology and Analytics Conference, held in London on June 15-17, 2022.



The Authority sent representatives to UNCTAD's "Intergovernmental Group of Experts on Consumer Law and Policy" meeting held in Geneva on July 18-19, 2022, as well as to the "Intergovernmental Group of Experts on Competition Law and Policy" meeting, held on July 20-22, 2022.

Competition Board member Ayşe ERGEZEN made a presentation explaining the developments in Türkiye in the session titled "The Interplay between Competition, Consumer and Data Protection Policies in the Digital Era".



Representatives from the Competition Authority participated in the OECD Competition Committee meeting held on June 20-24, 2022 in Paris, as well as the meeting of the connected "Working Party No. 2 on Competition and Regulation" and "Working Party No. 3 on Cooperation and Enforcement".

A Libyan committee consisting of Dr. Salama Ghwil, who is the Minister of Economy as well as the President of the Libyan Competition Authority, and the Head of the International Relations Department, visited the Turkish Competition Authority on September 9, 2022. A bilateral memorandum of understanding was signed during the meeting. The memorandum was signed by the Deputy President Mr. Ahmet ALGAN on behalf of the Authority



A training was provided to the Supreme Council of Radio and Television's (Radyo Televizyon Üst Kurulu - RTÜK) Permits and Allocations Department staff on September 15, 2022, with an aim to conduct cooperative studies on developments related to competition and concentration in the broadcast sector.



On October 04, 2022, the Startups.watch Ankara 2022 event was held in METU Teknokent. Department Head Esin AYGÜN made a presentation in the session on "How are the fundamental principles of competition are shaped in a world of data and what kind of a future do we envisage for the growth of the start-up ecosystem."

Representatives from the Authority attended the conference titled "25 Years of Challenges and Success" in Zagreb on October 28, 2022, organized on the occasion of the twenty-fifth anniversary of the Croatian Competition Authority's (CCA) establishment.



Within the framework of the promotion of the Competition Authority and competition law, a presentation was made for the Yıldırım Beyazıt University Faculty of Law students on October 21, 2022.

The 20th Term Assistant Competition Experts who took office at the Competition Authority met with the President Birol KÜLE on October 25, 2022.



Within the framework of the promotion of the Competition Authority and competition law, a presentation was made for the Özyeğin University Faculty of Law students on October 21, 2022.

The 2023 Draft Budget of the Authority as well as its Final Accounts for 2021 were discussed at the Planning and budget Commission on November 7, 2022, together with the related Ministry of Trade.

During the Budget and Final Account discussions, the Minister of Trade, Mr. Mehmet MUŞ and the President of the Authority Birol KÜLE made a presentation.



On Thursday, November 10, 2022, a Memorial Day was held on the occasion of the 84th anniversary of the passing of the Founder of the Republic of Türkiye, Mustafa Kemal ATATÜRK.



The Authority sent representatives to the Conference titled "Antimonopoly Policy: Science, Practice and Training," organized by the Russian Federation's Federal Anti-Monopoly Service (FAS) on November 9-10, 2022.

A committee headed by Board Members Şükran KODALAK and Berat UZUN attended the conference on "Digital Transformation: Between Regulation and Competitiveness," organized by the Competition Council of the Kingdom of Morocco in Marrakech on November 9-10, 2022.



Representatives were sent to attend the international conference on "Competition and Consumer Rights," held by the Georgian National Competition Agency in Tbilisi on November 16-17, 2022.



Vice President Esin AYGÜN made the opening speech of the workshop organized by the Competition Authority in partnership with the Jean Monnet Chair project DIGITEUL in Istanbul on November 28, 2022.



Meetings held by the OECD and the Global Competition Forum were attended. A committee headed by the Board Members Hasan Hüseyin ÜNLÜ and Berat UZUN represented the Authority in these meetings.





Students from the Hacettepe University Faculty of Law visited the Competition Authority within the framework of the promotion of the Competition Authority and competition law on December 14, 2022.

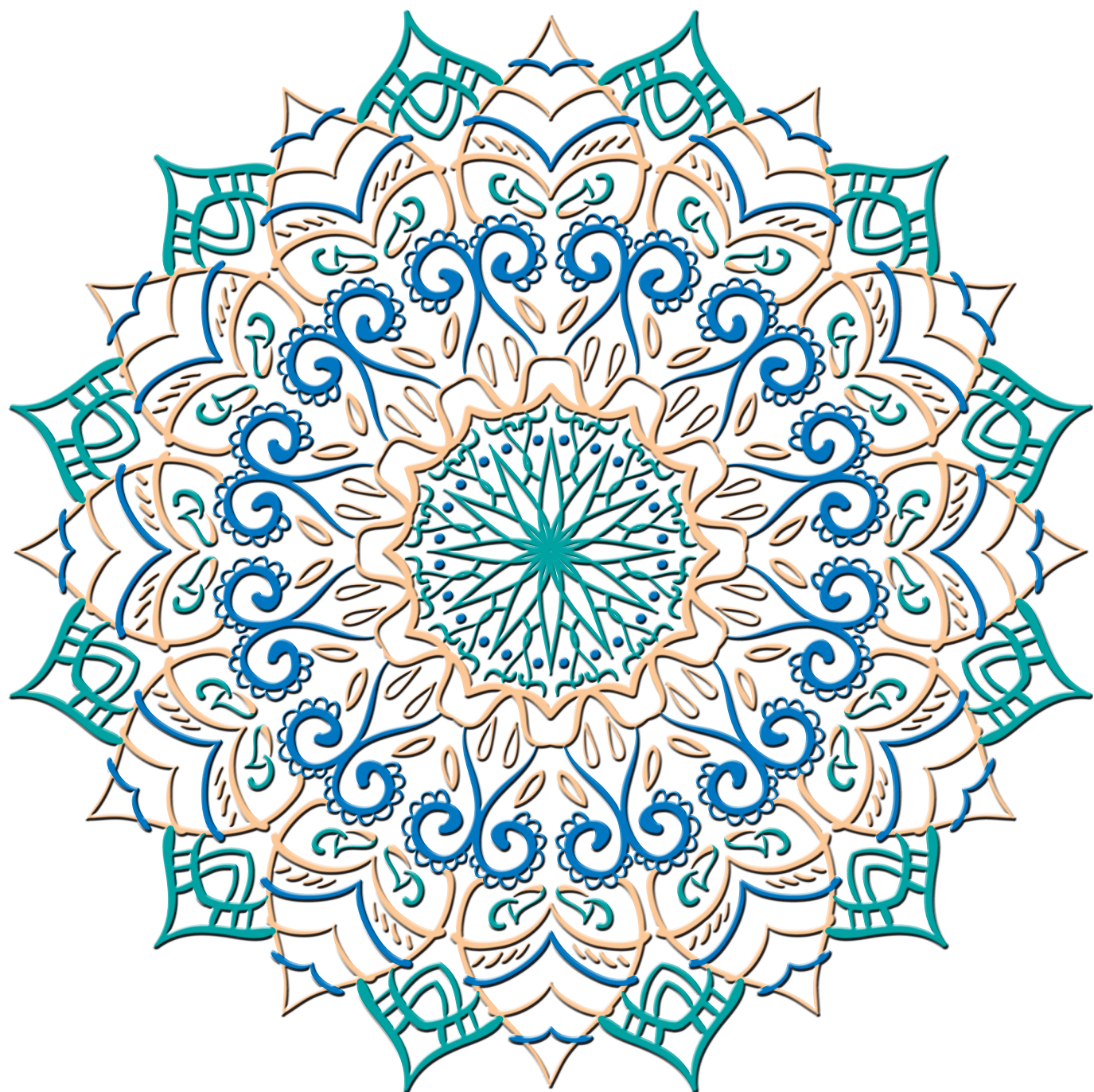
Within the framework of the promotion of the Competition Authority and competition law, students from the Bahçeşehir University Department of International Relations visited the Authority on December 26, 2022.



Within the framework of the promotion of the Competition Authority and competition law, students from the Fatih Sultan Mehmet University Faculty of Law visited the Authority on December 30, 2022.

Dr. Hakan YURDAKUL, Member of the Presidency of the Republic's Economic Policies Council, gave a speech titled "Turkish Economy and Business Opportunities" in the Thursday Conference held on Thursday, 29 December 2022.







GENERAL ASSESSMENT

4. GENERAL ASSESSMENT

An examination of the activities of the TCA in 2022 shows that a total of 342 files were finalized in the relevant year. Looking at the subject distribution of the 342 files concluded by the Board in 2022, 78 of these files were about competition infringements, 19 were about exemption/negative clearance applications, and 245 were about merger/acquisition/joint venture/privatization transactions. This distribution can be compared to that of 2021, revealing an increase in the number of competition infringement cases from 74 to 78, and merger/acquisition/joint venture/exemption files from 309 to 342, with a decrease in the number of negative clearance/exemption files from 22 to 19. In that sense, there is an increase in the number of files concerning competition infringements among the total distribution of files finalized in 2022.

In 2022, the number of files finalized as a result of preliminary inquiry and investigation processes conducted in response to claims of Article 4 and/or 6 infringements was 78. In 2022, food industry, information technologies and platform services, agriculture and agricultural products and other categories included the sectors with the highest number of competition infringement examinations. These five main sectors have a share of around 79% within the competition infringements cases finalized by the Competition Board in 2022.

Of the 78 files finalized concerning claims of Article 4 and/or 6 infringement, 17 were examined ex officio by the Competition Board in 2022. In other words, around 22% of the finalized competition infringement cases in 2022 consist of ex officio examinations. Of the competition infringement cases examined ex officio, 16 concerned Article 4 violations. Examining the share of ex officio competition infringement files launched in 2022 within all competition infringement files show that the Board has been able maintain its proactive approach, similar to the previous year.

A look at the distribution of the competition infringement cases concluded in 2022 according to the related Article of the Act shows that 58 of them concerned claims of Article 4 infringement, 14 concerned claims of Article 6 infringement, and 6 concerned claims of Article 4 and 6 infringement. Within that framework, the share of the files claiming Article 4 infringement within the total number of competition infringement cases was higher than that of the files claiming Article 6 infringement in 2022, similar to the previous five-year period. Of a total of 64 files claiming Article 4 infringement, 38 concerned horizontal agreements while 25 concerned vertical agreements. One file concerned both vertical and horizontal agreements.

An overview of the outcomes of the 78 files concerning competition infringements show that the claims were rejected in 20 out of the 24 preliminary inquiry files, and that five out of 54 investigation files were concluded with commitments, with another 34 concluding with settlement decisions. Administrative fines were imposed in 15 sectors as per Article 16(3) of the Act.

Comparing the total of 19 exemption/negative clearance applications finalized in 2022 with the 22 applications made in 2021 reveals that there was a decrease of 16% in the number of negative clearance/exemption cases finalized. Only four of the applications assessed in 2022 were concluded with a negative clearance decision. Of the 15 exemption applications finalized in the year in

question, eight was concluded with the Board deciding that the agreement in the application could benefit from block exemption and/or individual exemption. Four applications were concluded with an exemption subject to conditions and one file was finalized with an assessment to withdraw the exemption. Looking at the distribution of exemption/negative clearance files according to sectors, it can be seen that banking, capital markets, finance and insurance services; healthcare services; food industry as well as chemistry and mining sectors were in the lead, with around 74% of the exemption/ negative clearance examinations having been conducted in these four sectors.

In 2022, 245 merger and acquisition application were finalized, which shows a decrease of around 26% in the number of finalized decisions in comparison to 2021. Of the aforementioned 245 applications, around 65% concerned acquisitions, and around 31% concerned the establishment of joint ventures. In addition, two mergers and seven privatization transactions were finalized in 2022. In that framework, it is possible to say that, in the last five years, there has not been a significant change in the distribution of the merger and acquisition transactions with relation to their nature. A look at the sectoral distribution of the same applications reveals that chemistry and mining, information technologies and platform services, healthcare services, and banking, capital markets, finance and insurance services sectors saw the largest number of M&A transactions, with these four sectors having a share of around 44% in total applications. Looking at the outcomes of the Board decisions, it can be seen that 209 transactions were authorized without conditions, and two were authorized subject to conditions. Thirty-four transactions were found to be out-of-scope or below the threshold.

Within the context of the files finalized in 2022, undertakings found to have infringed competition were imposed a total of 1,731,940,315 TL in administrative fines, in accordance with Article 16.3 of the Act. Out of the abovementioned amount imposed on the undertakings, TL 1,379,322,246 was for Article 4 infringements and TL 352,618,069 was for Article 6 infringements. In addition TL 115,268,235 was imposed in administrative fines for preventing on-site inspections in 2022.

An examination of the sectoral distribution of the fines imposed under Article 16(3) for the infringement of competition law rules in 2022 shows that the highest amount of administrative fines were imposed in the food industry sector, with a total of TL 1.06 billion. This is followed by information technologies and platform services sector with administrative fines of TL 347 million and agriculture and agricultural products sector with TL 186.7 million. Administrative fines imposed on these three sectors comprise around 92% of the total fines imposed for competition infringements in 2022. These sectors are followed by healthcare services with TL 61.1 million TL and those services categorized under "Other" with TL 35.4 million. In 2022, 139 of the lawsuits filed against the Board decisions on professional matters were concluded.

Of these lawsuits, 111, i.e. 80% were concluded in favor of the Authority. As of the end of 2022, there are ongoing sector inquiries within the framework of competition advocacy activities, concerning "fuel," "online advertising," "pharmaceuticals," "container transportation via liners and container port services market," "fast moving consumer goods retailing," and "automotive" markets. The relevant inquiries are deemed to be very important for identifying the competition issues

in the related fields and for finding proactive solutions to establish competitive functioning of the relevant industries. Another pillar of competition advocacy activities are comprised of events aimed at promoting competition law and the functions of Authority. Within this framework, in 2022 the TCA supported in-service training programs of various public agencies, and took part in various training programs and meetings with the cooperation of other public institutions, non-governmental organizations and universities. Another activity carried out within the framework of competition advocacy is rendering opinions to public institutions and organizations. Essentially, these opinions serve to examine a planned legislation, or a planned practice by the relevant agency or organization from a competitive perspective and, to the extent possible, to ensure that a competitive perspective is included in the relevant legislation text or practice. In this context, the TCA rendered a total of 18 opinions to various public agencies and organizations in 2022, six of which concerned legislation and 12 of which concerned other matters.

In 2022, economic analysis and research activities made important contributions to the assessment of various cases through the econometric analyses conducted, including the investigation launched on some undertakings operating as producers/suppliers and retailers within the fast moving consumer goods sector, the conclusions for which were previously shared with the public. Significant sectors such as fast moving consumer goods retailing, platform services, e-commerce, food, cement and fertilizers are among the sectors where the relevant examinations took advantage of the numerical analyses conducted. Additionally, the 2022 Mergers and Acquisitions Overview Report and the Impact Analysis Report aiming to determine the effect of the Competition Authority activities on consumer welfare during 2021 and 2022 can be listed within the scope of the economic analysis and research activities. According to the 2022 Mergers and Acquisitions Overview Report, the Competition Authority examined 245 transactions in 2022, concluding them within an average of 15 days after the last notification date. According to the calculations of the Impact Analysis Report based on OECD assumptions, the consumer benefit from the Authority's activities in 2021-2022 is estimated to be, on average, TL 26.55 billion (USD 1.6 billion) annually with December 2022 prices, and TL 67.32 billion (USD 4.06 billion) according to the OECD methodology. In light of the calculations above, the benefit provided to the economy is 82.06 times the average annual budget expenses of the Authority in the relevant period, and it is around 208.07 times the budgetary expenses according to the calculation based on the OECD methodology.

As in the previous years, the TCA attached great importance to improving international relations in 2022. In this context, representatives participated in various multilateral meetings, international conferences and international training seminars, including those organized by the European Union, Organization for Economic Co-operation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD), International Competition Network (ICN).

In terms of the training activities, the Authority continued its work on the training programs aimed at the assistant experts who took office in 2022 as well as for other professional staff. Another part of the training activities was the "Internship Rally" program coordinated by the Human Resources Office of the Presidency of the Republic and conducted through the participation of Ministries,

connected, related and associated and coordinated institutions and organizations, as well as volunteering employers from the private sector, which was attended by six university students. Furthermore, a total of 402 university students qualified for a certificate within 2022 under the scope of the "Competition Law Internship Program with Participation Certificate," which is being offered for university students by the Authority since 2003.

As a result, in 2022, the Competition Authority continued to carry out all of its functions in terms of its primary duty of applying the competition law rules, continued its competition advocacy activities, and had a quite busy and productive year under the aforementioned conditions. Improving the institutional capacity continued to be a priority target in 2022, with special attention placed on conducting an institutional self-evaluation based on past experiences, in order to ensure better outcomes in the future. As in the previous years, the TCA monitored the developments in the national and international markets, the relevant literature and country practices in 2022. Within the framework of the know-how acquired as a result of such studies and the Strategic Plan for 2019-2023, the Turkish Competition Authority will continue with its operations in the forthcoming period, with an aim to carry out its mission and achieve its vision.

5. EVALUATION OF ORGANIZATIONAL CAPABILITY AND CAPACITY:

Internal and External Analysis

The TCA endeavors to carry out the functions and responsibilities it has been charged with by law, working with external factors such as the political and economic environment it experiences, and with the internal factors including the organizational structure, human resources and institutional culture. The strengths and the improvable aspects of the internal organizational environment and the current opportunities and challenges of the external environment are listed below.

5.1. Strengths

- High credibility of the Authority
- Professional expertise and independence of the rapporteurs
- Pool of qualified human resources
- Feeling of professional belonging

5.2. Improvable Aspects

- The need to improve economic analysis capacity
- Increasing on-site inspection equipment capacity
- Finalization of the initial regulation for digital markets.

5.3. Opportunities

- The emphasis on “competition” in the higher policy documents
- Increase in the general awareness for the indispensability of competition
- Proliferation of competition law practices around the world
- Continuing economic growth

5.4. Challenges

- Technological developments making it easier to hide competition infringements
- Anti-competitive provisions in other legislation
- Increase of concentrations in the markets
- Increase in the general level of prices in the markets for goods and services
- Misinformation in the public concerning the mission of the Turkish Competition Authority



6. RECOMMENDATIONS AND PRECAUTIONS

The Strategic Plan for the 2019-2023 period, published in 2019 by the TCA, aims to re-establish the mission and vision of the Competition Authority under the guiding light of the previous institutional experience, assessments on the developments in the international arena, and the awareness of the changes emerging in the markets as well as in the ways of doing business caused by developing technology and increasing digitalization.

New goals and targets have been set towards implementing the mission and vision determined under the three main pillars of competition law enforcement, competition advocacy and policy development. Another pillar is determined to be the institutional capacity which will allow the TCA to reach these goals and targets, and it has been made the subject of various other goals and targets to complement the aforementioned pillars.

In that context, 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 (the Commitments Communiqué) and the Settlement Regulation were effectively implemented in 2022. With the aforementioned Commitments Communiqué, commitments that were found to eliminate the competition concerns were made binding in many sectors, and as a result either no investigation was launched on the matter or any ongoing investigation was terminated. This was intended to prevent worsening the damages caused by the competition infringement as well as to save time and resource costs in the detailed examination processes required for identifying an infringement. Similarly, within the scope of the settlement facility created by the Settlement Regulation, the duration of a number of investigations were shortened, which allowed savings of public resources in administrative processes as well as lawsuit proceedings.

Moreover, technology undertakings were brought under the scope of the Communiqué Concerning the Mergers and Acquisitions Calling for the Authorization of the Competition Board in 2022. With this addition, acquisition transactions concerning the digital platforms, undertakings operating in the fields of software and gaming software, financial technologies, biotech, pharmacology, agricultural chemicals and healthcare technologies which are active or have R&D operations in the geographical market of Türkiye or which provide services to the users in Türkiye, or concerning the related assets thereof have become subject to authorization without thresholds. For those mergers and acquisitions subject to authorization, the thresholds for the parties to the transaction were increased and updates were made to the calculation of turnovers for financial institutions. The mergers and acquisitions in question can be notified through the e-Government, and those mergers and acquisitions that can lead to a significant decrease in effective competition in the entirety or a portion of the country will be evaluated.

Primarily, the Authority is continuing to work its hardest to implement the amendments made to the Act no 4054, together with the relevant secondary regulations. The full implementation of these amendments has improved the evidence-gathering capabilities of the Authority, facilitated alignment with international developments and allowed timely and proper intervention in changing

markets, and thus has increased the efficiency of competition law enforcement. The Authority will maintain its work in this direction with an aim to improve its functionality and effectiveness.

Ensuring that the Competition Authority and competition law are recognized and embraced at the level of individuals, agencies and sectors and that this recognition is reflected in the behavior of the shareholders will ultimately contribute to the development of competitive markets in Türkiye. At this juncture, it is important for the TCA to continue its competition advocacy activities in a manner that is as inclusive as possible.

Another area that will constitute an important portion of the TCA's efforts in the future is the development of policies to properly direct the resources of the Authority. To that end, it is particularly important to determine distorted markets and/or markets with a high potential of competition infringements. Therefore, the Authority has already put into its agenda the actions it will take in order to identify these areas in the forthcoming period.

Lastly, the TCA is well aware of the fact that it will achieve its goals and reach its targets at a satisfactory level only if it has sufficient institutional capacity and continuously develops that capacity to meet the novel requirements it will face. To that end, the Authority will continue to organize studies and activities to improve its human resources in terms of knowledge, ability and capacity through domestic and overseas training programs, seminars and conferences.

As an agency which has earned the trust of all concerned shareholders before the public by its correct decisions, its transparent and inclusive sense of work, and its qualified human resources, the Turkish Competition Authority will put the utmost effort into maintaining its status in the future and develop competition law practices in Türkiye.

