Review of the Turkish Competition Authority's Guidelines on Enforcement in Labour Markets in an International Context

Gönenç Gürkaynak

Gürkaynak Attorneys-at-Law, Istanbul

Dilara Yeşilyaprak Akay

Gürkaynak Attorneys-at-Law, Istanbul

Gülbin Serin

Gürkaynak Attorneys-at-Law, Istanbul

Introduction

Antitrust authorities are increasingly focusing on labour markets and the Turkish Competition Authority ('Authority') joined this trend, announcing its Guidelines on Competition Infringements in Labour Markets on 3 December 2024 ('Guidelines').[1]

1 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 3.

The Guidelines provide general discussion and analysis regarding labour markets and concentrates on the implementation of Article 4 of the Law No 4054 on the Protection of Competition ('Law No 4054'),[2] explaining wage-fixing agreements, no-poaching agreements, information exchange and ancillary restraints and briefly addressing the implementation of Article 5 (exemption mechanism),[3] Article 6 (abuse of dominance)[4] and Article 7 (mergers and acquisitions)[5] in labour markets.

According to the Guidelines, companies competing for the same workers are considered competitors in the labour market, regardless of whether they compete in the same product/service markets. Anti-competitive labour practices may arise from an imbalance of power due to a large supply of employees and few employers, high job-switching costs and restrictive clauses such as non-competes. Such conduct harms workers, leading to inefficient labour allocation, increased market collusion and harming consumers through higher prices, lower quality and fewer choices.[6]

While the Guidelines introduce the competition rules in labour markets, they fail to explore underpinning economic and legal mechanisms. The assertion that anti-competitive labour practices lead to higher consumer prices, diminished quality and reduced choices appears, prima facie, counterintuitive. One might anticipate that employer collusion to lower wages would lead to reduced consumer prices or higher profits, not directly inflate consumer costs. While the Guidelines would benefit from exploring how suppressed labour costs, resulting from anti-competitive conduct, ultimately lead to consumer detriment by potentially examining theories of market power, the potential for reduced innovation stemming from suppressed wages, or how the absence of competitive pressure within the labour market could foster inefficiencies in resource allocation within companies, thereby indirectly impacting product markets, they stay silent on these. Nonetheless, the recent decisions[7] indicate that the Authority has begun to explore certain theories, particularly monopsony power and allocative inefficiencies in input markets.

This article explains the enforcement policies outlined by the Guidelines whilst also referencing both the Turkish Competition Board's (the 'Board') decisional practice preceding and following the adoption of the Guidelines, and makes comparisons with selected foreign jurisdictions.

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2 Law No 4054 on the Protection of Competition, www.rekabet.gov.tr/en/Sayfa/Legislation/act-no-4054 accessed 24 April 2026.

3 Law No 4054 on the Protection of Competition.

4 Law No 4054 on the Protection of Competition.

5 Law No 4054 on the Protection of Competition.

6 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 13, paras 4–5.

7 Turkish Competition Board (Decision 25-18/433-202, 9 May 2025); (Decision 25-19/457-215, 15 May 2025); (Decision 24-20/466-196, 24 April 2024); Decision (24-40/948-407, 03 October 2024).

Implementation of Article 4 of Law No 4054

According to the Guidelines, labour, as a material cost and important input for goods/services, acts as a competitive parameter amongst undertakings.[8] Businesses strive to hire the most qualified employees at the lowest cost which can lead to practices such as retaining employees or suppressing wages,[9] potentially leading to conduct which restricts labour mobility and distorts wage and working conditions.[10]

Wage-fixing agreements

Guidelines and Board decisions

According to the Guidelines, non-wage working conditions significantly influence employee choices and job mobility and wage-fixing agreements encompass current or future wages and working conditions,[11] which can be fixed or within a range.[12] Wage-fixing agreements can be made either directly or through a third-party, who may be party to the infringement as a facilitator.[13] Wage-fixing agreements, akin to price-fixing in the output market, are considered by-object violations and viewed akin to cartels.[14] This aligns with the Board's previous decisions[15] and has been confirmed in Board decisions published post Guidelines,[16] which regard coordinating and fixing wages or similar as price-fixing and buyer-side cartels.

8 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 11.

9 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 11.

10 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 12.

11 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 13, provides a non-exhaustive list of working conditions: wages, increases, work periods, fringe benefits, compensation, leave entitlements, non-compete obligations, working time and location, annual leaves, wage supplements, breaks, social benefits (eg, marriage, maternity, education, food, disability and death benefits) and private health insurance and private pension schemes where contributions are paid by the employer.

12 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 15.

13 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 18.

14 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) paras 16–17.

15 Turkish Competition Board (Decision 24-13/265-108, 14 March 2024); (Decision 24-08/138-56, 15 February 2024); (Decision 20-01/3-2, 2 January 2020); (Decision 05-49/710-195, 28 July 2005); (Decision 19-06/64-27, 7 February 2019).

16 Turkish Competition Board (Decision 25-18/433-202, 09 May 2025); (Decision 25-19/457-215, 15 May 2025); (Decision 24-20/466-196, 24 April 2024); Decision (24-40/948-407, 3 October 2024).

Comparison with other jurisdictions

Most jurisdictions recognise that wage-fixing agreements affect other employment conditions and benefits and increasingly adopt a functional rather than formal definition of 'wages' including bonus structures, salary bands, allowances, signing-on bonuses, relocation packages, equity-based compensation and other monetary or quasi-monetary benefits, particularly in knowledge-intensive and freelance-based sectors.

Although examples of these employment conditions and benefits vary between jurisdiction, the majority treat wage-fixing agreements as a by-object or per se violation, considering it to be cartel-like behaviour.

The US Department of Justice (DOJ) and Federal Trade Commission's (FTC) Guidance[17] states that wage-fixing agreements, which violate antitrust laws may create criminal liability[18] while referring to precedents[19] that identify such wage-fixing agreements as per se violation.[20] This approach is reflected in post DOJ–FTC Guidance developments, including the FTC's establishment of a Joint Labour Task Force,[21] as well as the recent US District Court case.[22]

The European Commission's ('Commission') Guidelines[23] place wage-fixing agreements under the 'restrictions of competition by-object' section and its Policy Brief[24] regards wage-fixing agreements as a form of purchase price fixing, akin to a purchasing cartel.

The UK's Competition and Markets Authority's (CMA) Horizontal Guidelines and Guidelines for Employers and Guidelines on Competing for Talent deem

17 'Antitrust Guidelines for Business Activities Affecting Workers' (DOJ–FTC, January 2025) www.ftc.gov/system/files/ftc_gov/pdf/p251201antitrustguidelinesbusinessactivitiesaffectingworkers2025.pdf accessed 24 April 2026.

18 'Antitrust Guidelines for Business Activities Affecting Workers' (DOJ–FTC, January 2025).

19 *US v Jindal* 621 F Supp 3d 727 (ED Tex 2022); *US v Ryan Hee* No 2:21-cr-00098-RFB-BNW (D Nev 29 March 2022).

20 *See* n 17, p 5.

21 'FTC Launches Joint Labor Task Force to Protect American Workers' (FTC, 26 February 2025) www.ftc.gov/news-events/news/press-releases/2025/02/ftc-launches-joint-labor-task-force-protect-american-workers accessed 24 April 2026.

22 *United States v Eduardo Lopez* US District Court for the District of Nevada, Case No 2:22-cr-00055-JAD-NJK, judgment of November 2025.

23 Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements 2023 [2023] OJ C259/01 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023XC0721(01) accessed 24 April 2026.

24 Alessio Aresu, Dominik Erharter and Brigitta Renner-Loquenz, 'Competition Policy Brief: Antitrust in Labor Markets' (European Commission, May 2024) https://competition-policy.ec.europa.eu/document/download/adb27d8b-3dd8-4202-958d-198cf0740ce3_en accessed 24 April 2026.

wage-fixing agreements as cartels.[25] The French Competition Authority (FCA)[26] and CMA found that the agreements entered into by modelling agencies and their trade associations which indirectly impacted the model fees were anti-competitive by-object.[27] A joint report by the Nordic competition authorities noted that wage-fixing agreements are clear and serious infringements, likely to be treated as by-object violation.[28] Polish and Lithuanian authorities classified the practices of national basketball leagues and clubs which prevent players from moving to other teams for better terms and collectively fix wages by refusal to pay salaries as cartel-like behaviour.[29]

The Competition Commission of Singapore (CCS) found that employment agencies were engaged in by-object violation by fixing the monthly employee wages[30] while the Japan Fair Trade Commission (JFTC) noted, in a 2018 report, that wage-fixing arrangements constitute an antitrust problem, without room for consideration of its pro-competitive effects.[31]

While the Competition Bureau Canada (CBC) Guidelines regard wage-fixing agreements per se illegal,[32] Peru's Commission for the Defence of Free Competition's ('Indecopi') Guidelines regard wage-fixing agreements as

25 'Competing for Talent' (CMA, 9 September 2025) https://assets.publishing.service.gov.uk/media/68bffbb38c6d992f23edd75c/competing-for-talent-guide.pdf accessed 24 April 2026.

26 FCA (Decision 16-D-20, 29 September 2016).

27 CMA (Case CE/9859-14, 16 December 2016).

28 Joint Nordic Report, 'Competition and labor market' (2024) www.konkurrensverket.se/globalassets/dokument/informationsmaterial/rapporter-och-broschyrer/nordiska-rapporter/nordic-report_2024_competition-and-labour-markets.pdf accessed 24 April 2026.

29 Alex Bagley, 'Poland Issues First No-Poach Infringement Decision' (Global Competition Review, 24 October 2022) https://globalcompetitionreview.com/article/poland-issues-first-no-poach-infringement-decision accessed 24 April 2026; 'By Agreeing Not to Pay Players' Salaries Lithuanian Basketball League and Its Clubs Infringed Competition Law' (Lithuania Competition Council, 18 November 2021) https://kt.gov.lt/en/news/by-agreeing-not-to-pay-players-salaries-lithuanian-basketball-league-and-its-clubs-infringed-competition-law accessed 24 April 2026.

30 *Singapore v Employment Agencies* (CCS 500/001/1).

31 'Report of the Study Group on Human Resource and Competition Policy' (JFTC, 15 February 2018) www.jftc.go.jp/en/pressreleases/yearly-2018/February/180215_files/180215_3.pdf accessed 24 April 2026.

32 'Enforcement Guidelines on Wage-fixing and No-Poaching Agreements' (CBC, 30 May 2020) https://competition-bureau.canada.ca/en/how-we-foster-competition/education-and-outreach/enforcement-guidelines-wage-fixing-and-no-poaching-agreements#sec2-1 accessed 24 April 2026.

hardcore cartels.[33] CADE's Antitrust Leniency Programme Guidelines[34] also consider wage-fixing agreements as cartels.

While the Guidelines summarise the legal treatment of wage-fixing similar to the approach in the EU, North America, and parts of Latin America and Asia, they offer limited practical guidance on matters such as collective bargaining. Some jurisdictions exempt collective bargaining agreements negotiated by organised social partners (trade unions and employers' organisations) in the Joint Nordic Report[35] and CBC Guidelines,[36] despite their resemblance to wage-fixing agreements. This omission suggests a formalistic approach, risking chilling legitimate negotiations in sectors where such agreements are prevalent, due to fear of competition law infringement.

No-poaching agreements

Guidelines and Board decisions

The Guidelines cover hiring bans and agreements requiring employer consent; the determinative element of which is the limitation of employee mobility.[37] No-poaching agreements, akin to supplier/customer allocation agreements, are considered by-object violations and viewed as cartel-like.[38] No-poaching agreements can concern current or former employees and be made directly or through a third-party, who may also be party to the infringement due to a facilitating role.[39] This aligns with the Board's previous decisions[40] and is confirmed by Board decisions published post-Guidelines.[41]

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33 'Informational Guidelines about Anticompetitive Agreements among Companies in Labor Markets' (Indecopi, June 2020) https://cdn.www.gob.pe/uploads/document/file/2131165/Informational%20Guidelines%20-%20Anticompetitive%20Agreements%20in%20Labor%20Markets.pdf accessed 24 April 2026.

34 'CADE's Antitrust Leniency Programme Guidelines advances in fight against cartels' (CADE, 10 September 2025) www.gov.br/cade/en/matters/news/cades-antitrust-leniency-programme-guidelines-advances-in-fight-against-cartels accessed 24 April 2026.

35 Joint Nordic Report, 'Competition and labor market' (2024).

36 'Enforcement Guidelines on Wage-fixing and No-Poaching Agreements' (CBC, 30 May 2020).

37 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 19.

38 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 20.

39 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 21.

40 Turkish Competition Board (Decision 24-13/265-108, 14 March 2024); (Decision 24-08/138-56, 15 February 2024).

41 Turkish Competition Board (Decision 24-10/170-66, 27/02/2024); (24-40/948-407, 3 October 2024).

Indeed, in *IT Professionals*,[42] the Board explicitly characterised bilateral no-poaching arrangements restricting employee transfers as 'naked' restraints in the labour market and distinguishing lawful unilateral or parallel conduct, the Board held that infringement requires evidence of reciprocal and demonstrable mutual consent to restrict employee mobility.

In *Kocaeli Private Schools*,[43] the Board assessed agreements not to hire rival schools' teachers as a form of labour market allocation, stressing that such practices suppress employee mobility, weaken bargaining power and give rise to monopsony-like effects on the demand side of the labour market. The Board expressly rejected arguments that the absence of proven output-market effects or the limited economic weight of labour costs could excuse the behaviour and reaffirmed that restrictions as such constitute a standalone violation.

Additionally, the Board's pre-[44] and post-[45] Guidelines decisions acknowledge that wage-fixing agreements and no-poaching agreements may be interrelated, while the Guidelines do not specifically refer to such a possibility.

Comparison with other jurisdictions

The Guidelines mirror approaches in the EU, North America and Latin America. While the definitions of no-poaching agreements are similar, the assessment framework is still evolving in certain foreign jurisdictions.

DOJ–FTC Guidance deems 'naked' no-poaching agreements (those not ancillary to legitimate collaborations) as per se criminal violations,[46] aiming to clarify US courts' inconsistent stance (while some cases regarded no-poaching agreements as per se violations[47] others have been less definitive[48]). However, recent enforcement experience indicates that while criminal prosecutions have faced evidentiary and doctrinal challenges, state-level enforcement has gained momentum. Recently,

42 Turkish Competition Board (Decision 24-10/170-66, 27 February 2024).

43 Turkish Competition Board (Decision (24-40/948-407, 3 October 2024).

44 Turkish Competition Board (Decision 20-01/3-2, 2 January 2020).

45 Turkish Competition Board (Decision (24-40/948-407, 3 October 2024); (Decision 24-10/170-66, 27 February 2024).

46 'Antitrust Guidelines for Business Activities Affecting Workers' (DOJ–FTC, January 2025) pp 4–5.

47 *US v Adobe Sys Inc* No 10-CV-01629 (D-D-C 2010) pp 7–8; *McDonald's LLC v McDonald's Corp* No CV04-1895P (W D Wash 14 October 2005).

48 *US v DaVita Inc* No 1:21-cr-00229 (D-Colo 2021)*; US v Patel* No 3:21-cr-220 (D Conn 2023).

the California Attorney General settled a no-poaching case against securing civil penalties and remedies.[49]

The Commission's Horizontal Guidelines do not explicitly cover no-poaching agreements. However, their Policy Brief treats them like supply market sharing agreements under TFEU Article 101, suggesting they should be considered by-object violations. This view is reinforced in *Delivery Hero-Glovo* where the Commission held that reciprocal no-poaching agreements between competing platforms constitute a by-object cartel, including in labour markets.[50]

Among EU national competition authorities, the Belgian Competition Authority (BCA) fined security companies for cartel practices, including mutual no-poaching agreements of actively recruiting each other's employees.[51] While providing guidance in relation to the study on the effects of no-poaching agreements on the output market and labour market,[52] the Portuguese Competition Authority (AdC), fined the Professional League and clubs for promising not to hire the players who terminated their contracts due to Covid-19.[53,54] The Spanish Competition Authority (CNMC) determined that a freight forwarding cartel also agreed on the employee recruitment conditions, restricting competition by-object[55] and is

49 Rob Bonta (California Attorney General), 'No-Poach Agreements Hurt Workers – We're Fighting Back: Attorney General Bonta Secures Settlement Barring PSSI from Unlawful Labor Practice' (2 December 2025). https://oag.ca.gov/news/press-releases/no-poach-agreements-hurt-workers-%E2%80%93-we%E2%80%99re-fighting-back-attorney-general-bonta accessed 24 April 2026.

50 'Commission fines Delivery Hero and Glovo €329 million for participation in online food delivery cartel' (European Commission, 2 June 2025). https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1356 accessed 24 April 2026.

51 'The BCA fines Securitas, G4S and Seris over 47million euros to sanction their participation in a complex cartel scheme in the private security sector' (BCA, 3 July 2024) www.belgiancompetition.be/sites/default/files/content/download/files/20240703_Press_release_27_BCA.pdf accessed 24 April 2026.

52 'Labor market agreements and competition policy' (AdC, September 2021) www.concorrencia.pt/sites/default/files/Issues%20Paper_Labour%20Market%20Agreements%20and%20Competition%20Policy.pdf accessed 24 April 2026.

53 'PRC/2020/01 Final Decision' (AdC, 29 April 2022). www.concorrencia.pt/sites/default/files/processos/prc/AdC-PRC_2020_01-Decisao-VNC-final-net.pdf accessed 24 April 2026.

54 The same factual background later led to a preliminary ruling request before the CJEU (C-133/24), in which Advocate General Emiliou's non-binding Opinion suggests that, in limited and exceptional circumstances, contextual justification may displace a by-object qualification. https://infocuria.curia.europa.eu/tabs/document?source=document&text=&docid=299652&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=1801036 accessed 24 April 2026.

55 'Competition Issues in Labor Markets-Note by Spain' (OECD, 17 May 2019) https://one.oecd.org/document/DAF/COMP/WD(2019)48/en/pdf accessed 24 April 2026.

pursuing further no-poaching investigations in aviation ground services.[56] Aligned with its guidance,[57] the Lithuanian Competition Council sanctioned a real estate agency and its members for a no-poaching provision in their code of ethics.[58] The FCA treated no-poaching agreements as by-object infringements, reaffirming in 2025[59] that only certain narrowly tailored clauses that could be linked to legitimate cooperation may fall outside competition law.[60] The Polish Competition Authority charged a major retailer and transport companies for restricting driver mobility,[61] while Slovakia's Antimonopoly Office sanctioned a trade association for adopting a code of ethics prohibiting employee poaching.[62]

While CMA Guidelines for Employers and Guidelines on Competing for Talent treat no-poaching agreements as cartels, the CBC considers them per se illegal and adds that any limitation on employees' job opportunities may be examined to see whether it is in furtherance of a no-poaching agreement.[63] The Indecopi Guidelines note that such agreements constitute prohibited horizontal collusive agreements to limit the supply and to allocate suppliers, classifying them as hardcore cartels.[64]

CADE's Antitrust Leniency Programme Guidelines also consider no poaching agreements as cartels.

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56 'The CNMC initiates infringement proceedings against several companies operating and managing facilities dedicated to executive aviation' (CNMC, 24 October 2025) www.cnmc.es/sites/default/files/editor_contenidos/Notas%20de%20prensa/2025/20251024_NP%20incoaci%C3%B3n_FBO%20%28en%29.pdf accessed 24 April 2026.

57 'Guidance Anti-competitive Agreements in Labor Markets' (LCC, 2023) https://kt.gov.lt/uploads/documents/files/Atmintin%C4%97%20ENG%20(1).pdf accessed 24 April 2026.

58 'Real Estate Agencies Agreed Not to Compete for Clients and Employees' (LCC, 2022) https://kt.gov.lt/en/news/real-estate-agencies-agreed-not-to-compete-for-clients-and-employees accessed 24 April 2026.

59 Decision 17-D-20 (FCA, 19 October 2017).

60 'No-poach practices: the Autorité de la concurrence fines four companies in the engineering, technology consulting and IT services sectors' (FCA, 11 June 2025) www.autoritedelaconcurrence.fr/en/press-release/no-poach-practices-autorite-de-la-concurrence-fines-four-companies-engineering accessed 24 April 2026.

61 'Collusion in the labour market? President of UOKiK presses charges against Biedronka and transport companies' (Polish Competition Authority, 14 July 2025) https://uokik.gov.pl/en/collusion-in-the-labour-market-president-of-uokik-presses-charges-against-biedronka-and-transport-companies accessed 24 April 2026.

62 'KARTELY: PMÚ uložil prvú pokutu za kartelovú dohodu na trhu práce' (Slovakia Antimonopoly Office, 2 July 2025) www.antimon.gov.sk/kartely-pmu-ulozil-prvu-pokutu-za-kartelovu-dohodu-na-trhu-prace/?csrt=6466279532606846193 accessed 24 April 2026.

63 'Guidance on the application of the Chapter I prohibition in the Competition Act 1998 to horizontal agreements'(CMA, 2023); 'Enforcement Guidelines on Wage-fixing and No-Poaching Agreements' (CBC, 30 May 2020).

64 'Informational Guidelines about Anticompetitive Agreements among Companies in Labor Markets' (Indecopi, June 2020).

The JFTC considers that no poaching agreements hinder labour competition among employers,[65] the Chinese Antitrust Authority (SAMR) warned pig-breeding enterprises that their public 'No-Poaching Pact', which included wage-fixing, violated anti-monopoly law, requiring corrective action.[66]

While identifying limited employee mobility as key, the Guidelines overlook labour's non-fungible nature and the legitimate interest of protecting labour investments. Albeit it addresses no-poaching covenants as ancillary restraints, it remains unclear whether the by-object approach adequately allows for reasonable pro-competitive justifications or whether a rule of reason analysis, balancing benefits against harms, would be more appropriate for certain no-poaching agreements, given the oversimplified analogy to traditional supplier/customer allocation. The Guidelines, like their international counterparts, demonstrate a unified intent to curb no-poaching agreements and guidance on clearer application of ancillary restraint principles and alignment with legitimate business interests left to evolving decisional practice.

Information exchange

Guidelines and Board decisions

The Guidelines identify labour-related information that impact employment or mobility (ie, wage increases, working hours, fringe benefits, compensations and leave entitlements) as competitively sensitive.[67] It states that unilaterally or multilaterally exchanging competitively sensitive labour-related information can restrict competition, like in output markets. Advising utilisation of Horizontal Cooperation Agreements Guidelines for an assessment,[68] it clarifies that any information exchange made with the object to restrict competition will be considered anti-competitive, regardless of its effect[69] and exchanges between competitors can be considered an anti-competitive agreement if it facilitates no-poaching or wage-fixing.[70]

65 'Report of the Study Group on Human Resource and Competition Policy' (JFTC, 15 February 2018) p 5.

66 Zhang Yushuo, 'China's Anti-Trust Law Puts End to Pig Breeders' Idea of Talent Poaching Ban' (1 August 2023) www.yicaiglobal.com/news/chinas-four-biggest-hog-breeders-withdraw-initiative-restricting-talent-flow accessed 24 April 2026.

67 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 22.

68 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 26.

69 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 24.

70 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 25.

Direct or indirect (including intermediary/platform, associations, market survey organisations or private employment agencies, websites, media and algorithms) exchange of competitively sensitive labour-related information may constitute a violation.[71] To mitigate these concerns, the Guidelines advise third-party undertakings collecting data on working conditions and wages to aggregate such data, exclude current or future data, anonymise data sources and content and avoid collecting non-public data.[72] They include a safe harbour for information exchange if, cumulatively (i) the exchange is managed by an independent third-party; (ii) anonymised, prevents identification of data sources or individual content and (iii) is at least three months old, includes data from at least ten participants and no single participant's data represents more than 25 per cent of the total.[73]

While earlier decisions[74] recognised the sensitivity of labour-related information, Board decisions published post Guidelines demonstrate a more structured framework, under which information exchange may constitute either (i) a standalone by-object infringement; or (ii) a facilitating practice reinforcing wage-fixing or no-poaching agreements.

Overall, Board decisions[75] treat the exchange of competitively sensitive labour-related information as a standalone infringement, particularly where such exchanges involve current or future wage data, or other strategic employment conditions.

While the Guidelines introduce a formal safe harbour, recent decisions[76] clarify that aggregation/anonymisation alone is insufficient where the data remains granular, recent, or capable of reducing strategic uncertainty.

Comparison with other jurisdictions

The Guidelines has been highly influenced by the 2016 DOJ–FTC Guidance,[77] especially regarding the characteristics of permissible information exchange. The 2016 DOJ–FTC Guidance warned that sensitive exchanges may evidence implicit collusion, but allowed exchanges which where managed by a neutral third party,

71 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 27.

72 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 27.

73 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 28.

74 Turkish Competition Board (Decision 22-10/152-62, 24 February 2022).

75 Turkish Competition Board (Decision 25-19/457-215, 15 May 2025).

76 Turkish Competition Board (Decision 25-19/457-215, 15 May 2025); (Decision 25-18/433-202, 9 May 2025).

77 'Antitrust Guidance for Human Resource Professionals' (DOJ–FTC, October 2016) www.justice.gov/atr/file/903511/dl accessed 24 April 2026.

based on older, aggregated data, and were sufficiently anonymised.[78] However, the latest DOJ–FTC Guidance abolishes this criteria, stating that any labour information exchange may be unlawful if it is likely to have anti-competitive effects, regardless of intent or legitimate collaboration.[79]

While Brazil considers information exchange a violation, as demonstrated in a healthcare industry investigation concerning hiring practices,[80] it deems exchanges lawful if conducted by a neutral third-party, based on old and aggregated data, and limited to merger due diligence with proper 'gun-jumping' precautions.[81] The CADE's Antitrust Leniency Programme Guidelines expressly cover sensitive information exchanges, signalling that labour-market information sharing may trigger hardcore cartel enforcement and highlighting the importance of early compliance and proactive engagement.

The JFTC's antitrust legislation does not directly address exchange of labour-related information, apart from in the context of setting benchmarks.[82] In this regard, the JFTC notes that the exchange of historical and objective information is generally not problematic, provided that it does not serve as a basis for setting common benchmarks for current or future prices or otherwise facilitate coordination among employers. The CBC equally recommends to exercise caution when sharing employment terms.[83] Although the Commission resources stay silent, the CdA applies general information sharing rules, assessing legality based on the type, timing, aggregation and market context[84] and the LCC's Guidance recognises that the exchange of commercially sensitive labour-related information may restrict competition depending on the nature of the information, the exchange and the market characteristics.[85] The CNMC convicted companies for a cartel involving the sensitive salary/fee-related information exchange, noting that the systematic salary/fee-related information exchange constituted an infringement.[86] According to CMA Guidelines for Employers, sharing sensitive employee terms

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78 Antitrust Guidance for Human Resource Professionals' (DOJ–FTC, October 2016).

79 'Antitrust Guidelines for Business Activities Affecting Workers' (DOJ–FTC, January 2025) pp 6–7.

80 'CADE signs agreements in case in the market of hired labor in healthcare industry' (CADE, 29 September 2022) www.gov.br/cade/en/matters/news/cade-signs-agreements-in-case-in-the-market-of-hired-labour-in-healthcare-industry accessed 24 April 2026.

81 'Competition Issues in Labor Markets-Note by Spain' (OECD, 17 May 2019).

82 'Report of the Study Group on Human Resource and Competition Policy' (JFTC, 15 February 2018) pp 20–30.

83 'Enforcement Guidelines on Wage-fixing and No-Poaching Agreements' (CBC, 30 May 2020).

84 'Labor market agreements and competition policy' (AdC, September 2021).

85 'Guidance Anti-competitive Agreements in Labor Markets' (LCC, 2023).

86 'Summary of the CNMC Council Resolution of 02/03/2011 (Case S/0086/08 Professional Haircare)' (CNMC, 2 March 2011) www.cnmc.es/sites/default/files/33584_597.pdf accessed 24 April 2026.

and conditions can reduce recruitment and retention competition, and amount to a cartel.[87] CMA's Competing for Talent Guidelines provide detailed examples of information exchange and the degree these are likely to be considered problematic, with case law examples including the recent sports broadcasters' purchase of freelance services investigation,[88] where the CMA found that sharing wages related information gave rise to cartel.

The Guidelines provide a more detailed and comprehensive treatment of information exchange in labour markets than that of other jurisdictions. Yet, the Guidelines can be criticised for providing a broad definition of competitively sensitive information. Moreover, while the Guidelines provide a safe harbour for information exchange via third-parties, qualifying for such a safe harbour could be challenging for companies in smaller industries or specialised labour markets struggling to meet the minimum participant threshold or the age of data requirement, hindering legitimate benchmarking needs. Overall, it is important for the evolving case law to clarify what constitutes competitively sensitive labour-related information and strike a balance between promoting competition and supporting other crucial labour market objectives, such as transparency beneficial for employees. These challenges become even more pronounced in light of the EU Pay Transparency Directive,[89] which introduces extensive obligations for employers to disclose pay ranges, provide employees with access to pay information and report gender pay gaps, thereby actively promoting transparency in labour markets.[90] At the same time, the European Commission's increasing focus on 'signalling' through public or indirect communication suggests a stricter scrutiny of how such information is shared and interpreted under competition law.[91]

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87 'Guidance on the application of the Chapter I prohibition in the Competition Act 1998 to horizontal agreements' (CMA, 2023).

88 'Anti-competitive behaviour relating to the purchase of freelance services supporting the production and broadcasting of sports content Case 51156' (CMA, 21 March 2025) https://assets.publishing.service.gov.uk/media/6800fe12e16c376084e7c70c/Non-confidential_decision_1.pdf accessed 24 April 2026.

89 Directive (EU) 2023/970 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms [2023] OJ L132/21.

90 Council of the European Union, *Pay transparency in the EU* www.consilium.europa.eu/en/policies/pay-transparency/ accessed 24 April 2026.

91 Commission's Horizontal Guidelines (C(2023) 3445 final) https://competition-policy.ec.europa.eu/system/files/2023-07/2023_revised_horizontal_guidelines_en.pdf accessed 24 April 2026; European General Court judgment in *Michelin v Commission* (T-188/24) EU:T:2025:686, [2025] 5 CMLR 14.

Ancillary restraints

Guidelines and Board decisions

The Guidelines allow non-compete/poaching/solicitation covenants in the context of certain transactions (such as concentrations or service agreements) as ancillary restraints, exempting them from Article 4 provided they are ancillary to the transaction (but if not ancillary, they will be treated as by-object infringements).[92]

According to the Guidelines, such restrictions should be formally linked to the main agreement either by being incorporated within it or established through a separate agreement. Moreover, they should not constitute the primary objective of the main agreement but instead be directly related,[93] necessary[94] and proportional[95] for the implementation and sustainability of the main agreement.[96] The burden of proof to demonstrate the ancillary nature of these restrictions is on the parties to the agreement.[97]

Prior to the Guidelines, Board decisions on ancillary restraint mostly included evaluations under Article 7 and the Guidelines on Undertakings Concerned, Turnover and Ancillary Restraints in Mergers and Acquisitions; but were also addressed in vertical agreement related decisions,[98] which analysed direct relevance, necessity and proportionality of such restraints. This approach was fortified in *Izmir Container Transporters*,[99] where the Board endorsed an effects-based assessment of labour-related restraints in the context of legitimate collaborations.

The framework was further clarified in *Menarini*,[100] where the Board assessed no-poaching clauses under the ancillary restraint doctrine on a contract-by-contract basis, focusing on the link with the main transaction, the duration, scope and

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92 *Michelin v Commission* (T-188/24) EU:T:2025:686 at [31]–[32].

93 A restriction must be an indispensable and directly relevant part of a clearly identifiable main agreement, not capable of existing independently.

94 A restraint is necessary only if it is vital for the main agreement's execution and no less restrictive alternative exists.

95 A restraint's scope (objective, territory, duration, parties) must align with the main agreement, with no less restrictive alternatives. Assessed case-by-case, it typically fails if its duration is excessive or unclear, it restricts non-essential or unidentified employees, exceeds the main agreement's territory or covers more parties than necessary.

96 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 30.

97 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 41.

98 Turkish Competition Decision (Decision 13-59/823-348, 24 October 2013); (Decision 23-37/686-237, 10 August 2023); (Decision 12-25/717-203, 9 May 2012); (Decision 08-34/455-160, 20 May 2008).

99 Turkish Competition Decision (Decision 20-01/3-2, 2 January 2020).

100 Turkish Competition Decision (Decision 24-44/1030-440, 31October 2024).

objective necessity and proportionality, rejecting any presumption of ancillary nature. Many clauses failed to qualify as ancillary due to weak transactional links, excessive duration or overly broad scope. Nevertheless, how these principles will be applied in practice on a case-by-case basis remains to be seen.

Comparison with other jurisdictions

The Guidelines approach the assessment of ancillary restraints in line with several other jurisdictions.

DOJ–FTC Guidance provides that if a restraint is necessary to accomplish a broader commercial collaboration an effect-based analysis may be made.[101] The FTC clarifies that ancillary restraints are individually scrutinised for antitrust violations, and they must be reasonably necessary for transaction benefits and narrowly tailored (depending on the restrained competition and the restraint's relation to a legitimate business purpose, considering both duration and geographic scope) to the circumstances.[102] US courts follow similar principles,[103] analysing whether restrictions are integral, with plausible connection, and containing a significant promise of integration or cooperation yielding an increase in output and proportionally based on factors such the scope of employees and the duration.[104]

The Commission adopts a similar approach, requiring a non-restrictive main transaction and restraints that are directly linked, objectively necessary and proportionate.[105]

AdC Guidelines refer to Commission guidance and practice and add that ancillary restraints should be limited to the key employees that have know-how or goodwill.[106] The Croatian Competition Authority (AZTN) ruled that a no-poaching agreement between two IT companies was ancillary because it was directly linked to and objectively necessary for the main agreement's implementation.[107]

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101 'Antitrust Guidelines for Business Activities Affecting Workers' (DOJ–FTC, January 2025) p 5.

102 Brian Telpner, 'Just because it's ancillary doesn't make it legal' (FTC, 30 September 2019) www.ftc.gov/enforcement/competition-matters/2019/09/just-because-its-ancillary-doesnt-make-it-legal accessed 24 April 2026.

103 *US v Ebay Inc* 968 F Supp 2d 1030 (N D Cal 2013); *US v Knorr-Bremse AG*.

104 *Aya Healthcare Servs v Amn Healthcare Inc* No 17cv205-MMA (MDD) (S D Cal 20 April 2020); *Pittsburgh Logistics Systems Inc v Beemac Trucking LLC and Beemac Logistics LLC* 2021 WL 1676399 (Pa 29 April 2021); *ProTherapy Associates LLC v AFS of Bastian Inc* (2012); *Helmerich & Payne International Drilling* No 17-CV-358-GKF-FHM (26 December 2017).

105 Aresu, Erharter and Renner-Loquenz, 'Competition Policy Brief: Antitrust in Labor Markets' (European Commission, May 2024); Commission Notice on restrictions directly related and necessary to concentrations [2005] OJ C56/24 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj%3AJOC_2005_056_R_0024_01 accessed 24 April 2026.

106 'Labor market agreements and competition policy' (AdC, September 2021).

107 'Competition Issues in Labor Markets-Note by Spain' (OECD, 17 May 2019).

Ancillary restraints are permissible under CBC Guidelines if subordinate to and directly related/reasonably necessary for a valid, independent main agreement and proportionally based on means, duration and geographic scope.[108] According to the Competing for Talent Guidelines, the CMA regards non-solicitation terms necessary to enable the agreement to be carried out and are proportionate to the overall objectives of the agreement being non-problematic provided that the clause's duration, subject matter and geographical scope do not go beyond what is reasonably required.

While the Guidelines align with international practices, its reliance on 'direct relevance, necessity, and proportionality' for the assessment of ancillary restraints poses practical challenges in labour markets. It does not provide a clear framework (ie, the duration of the restraint, its geographic scope and the specific employees it targets) for the purpose of conducting an analysis. For example, the 'necessity' criteria is elusive. Deciding on how one is to definitively assess whether a no-poaching agreement is truly 'necessary' for the implementation and sustainability of a main agreement often involves subjective judgments and can be fraught with difficulties in proving, for example, that the same legitimate objective could not be achieved by less restrictive means. Recent Board practice, including in *Menarini*, suggests that these challenges are being addressed through a case-by-case, contract-specific assessment rather than through clear and comprehensive rules. While this approach enhances analytical rigour, it also underscores the importance of consistent decisional practice to provide legal certainty for undertakings seeking to design proportionate and defensible ancillary restraints in labour markets.

Implementation of other articles of Law No 4054

Article 5 assessment

According to the Guidelines, ancillary restraints are distinguished from agreements eligible for exemption under Article 4. While any restrictive agreement/practice can be exempt if it meets Article 5 criteria and Guidelines on the General Principles of Exemption, wage-fixing, no-poaching, or anti-competitive information sharing are unlikely to be exempt due to their presumed disproportionate restriction on competition.[109]

Pre-Guidelines case law has varied. While the Board denied a non-solicitation exemption in *BFIT*[110] due to unclear purpose and market restrictions,

108 'Enforcement Guidelines on Wage-fixing and No-Poaching Agreements' (CBC, 30 May 2020).

109 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) paras 44–45.

110 Turkish Competition Board (Decision 19-06/64-27, 7 February 2019).

a recent decision,[111] granted an exemption. This exemption was granted on the grounds that the restriction was limited to the contracting parties, did not prevent employees from pursuing employment opportunities elsewhere and the duration was necessary for the health insurance sector's operations and protection of sensitive data.

The Guidelines approach aligns with the approach adopted in the Commission's Policy Brief, which states that both wage-fixing and no-poaching agreements are unlikely to meet the TFEU Article 101(3) exemption criteria,[112] which provides general eligibility principles for exemption similar to the ones in Turkiye.[113]

Nevertheless, exemption analysis requires a case-specific assessment unless a matter involves significant anti-competitive restrictions and how these rules will evolve remains to be seen.

Article 6 assessment

The Guidelines state that abuse of dominance in labour markets must be assessed case-by-case, taking into account both labour market and product/service market dominance.[114]

Although no specific domestic precedent exists, input-market dominance cases, some domestic[115] and foreign abuse of dominance cases in input markets[116] offer guidance. AZTN investigated Gemicro for abusing its dominant position in specialised IT support by including a no-hire clause in contracts with leasing companies, preventing competitors from recruiting its former employees; commitments to remove these provisions were accepted.[117] The FTC in *UFC*,[118]

111 Turkish Competition Board (Decision 21-29/368-184, 3 June 2021).

112 Aresu, Erharter and Renner-Loquenz, 'Competition Policy Brief: Antitrust in Labor Markets' (European Commission, May 2024).

113 Guidelines on the application of Article 81(3) of the Treaty [2004] OJ C101/97 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52004XC0427%2807%29 accessed 24 April 2026.

114 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) para 47.

115 Turkish Competition Board (Decision 16-35/604-269, 27 October 2010); (Decision 10-57/1155-439, 2 September 2010).

116 *British Airways Plc v Commission* (T-219/99) ECR II-5917 at 120; *Oscar Bronner GmbH & Co KG v Mediaprint Zeitungs-und Zeitschriftenverlag GmbH & Co KG* (C-7/97) ECR I-7791 at 48; *Weyerhaeuser Co v Ross-Simmons Hardwood Lumber Co* 549 US 312 (20 February 2007).

117 'Competition Issues in Labor Markets-Note by Spain' (OECD, 17 May 2019); 'Gemicro commitments accepted' (ATZN, 2022) www.aztn.hr/en/gemicro-committments-accepted/ accessed 24 April 2026.

118 Katelyn Kohler, 'Analyzing Allegations of Anticompetitive Conduct That Led to the UFC's $335 Million Settlement' (Sports Litigation Alert, 5 April 2024) https://sportslitigationalert.com/analyzing-allegations-of-anticompetitive-conduct-that-led-to-the-ufcs-335-million-settlement/ accessed 24 April 2026.

scrutinised UFC's abuse of dominance in mixed martial arts (MMA), by way suppressing fighter compensation, limiting competition and exploiting fighters through various means, including coercive tactics and acquisitions that restricted fighter options and lowered their earning potential.

As established by the Guidelines, applying Article 6 in labour markets requires a case-by-case analysis, and we would expect future Board decisions to define dominance and its abuse within this context in more detail.

Article 7 assessment

For determining whether the transaction results in a significant lessening of competition in the labour market, the Guidelines provide a non-exhaustive list of factors to be assessed: parties' market shares, concentration level, the qualifications similarity of the employees employed by the parties to the transaction, barriers to entry, labour suppliers' organisation, changing jobs costs, the competitors' ability to increase capacity or make new investments, potential competitive pressure, whether the transaction increases the opportunities for competitors operating in the market to cooperate and potential killer acquisitions.[119]

While no Board decisions provide specific guidance on the assessment of merger control rules in the context of the labour markets, the issue has gained attention internationally.

As seen in *Kroger-Albertsons*,[120] the FTC halted the supermarket merger over concerns it would reduce worker competition, potentially lowering wages and union bargaining power; the *Penguin/Simon & Schuster* acquisition[121] was blocked due to fears of lower author compensation, leading to fewer published books. The DOJ–FTC Merger Guidelines explain that a merger between competing buyers may harm sellers and vice versa, and notes that competition agencies will assess the competitive effects of concentration among the competing employers, identifying detrimental effects on workers caused by companies with monopsony or market power as buyers – considering workers' individual needs, high job switching costs, and the specific employer-employee matching process in the job market.[122] This approach was reflected in the DOJ's *UnitedHealth/Amedisys*, which addressed alleged harm in local labour markets through both structural remedies

119 Turkish Competition Authority, *Guidelines on Competition Infringements in Labor Markets* (enforced by Board Decision 24-49/1087-RM (4), 21 November 2024) paras 48–49.

120 'Statement on FTC Victory Securing Halt to Kroger, Albertsons Grocery Merger' (FTC, 10 December 2024) www.ftc.gov/news-events/news/press-releases/2024/12/statement-ftc-victory-securing-halt-kroger-albertsons-grocery-merger accessed 24 April 2026.

121 *US v Bertelsmann SE & Co KGaA, Penguin Random House LLC, ViacomCBS Inc and Simon & Schuster Inc* 123 F Supp 3d 456, 789 (S D Cal 2022).

122 'Merger Guidelines' (DOJ–FTC, 2023).

and the divestiture of employment contracts.[123] In Europe, a transaction in Finland regarding the merger of two hospitals was cancelled due to concerns that the options of the doctors that do not work in these hospitals would be significantly reduced and limit competition.[124] Iceland's *Storytel's* acquisition[125] was rejected over fears it would dominate both print and audio markets, negatively impacting author remuneration, while the *Radiology* merger[126] was halted as it narrowed employment opportunities and restricted choice for specialised professionals.

Future Board precedents will be determinative for assessing labour-market effects and the weight given to factors such as labour organisation and job-switching costs.

Conclusion

Many jurisdictions are increasing antitrust scrutiny of labour markets. Turkiye has joined this trend through its Guidelines, aligning with most existing frameworks in other jurisdictions while maintaining unique perspectives and enforcement priorities.

The Guidelines are one of the most detailed documents adopted globally, yet they provide limited insight into certain practical and critical assessment on explaining economic rationale, collective bargaining agreements, the interplay between no-poaching agreements and a broader evaluation of ancillary restraints, and addressing the broad and ambiguous criteria for ancillary restraints in light of legitimate business interests and broader labour market dynamics. Consequently, they emphasise the risk that overly broad definitions or restrictive safe harbour rules may not be suited to the practical assessment of exchanges involving competitively sensitive information in labour markets. Recent Board decisions have started to bring clarity to the implementation of the Guidelines; however, we are still in an early stage, and it remains to be seen how these rules will be interpreted across varying business models and labour structures.

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123 'Justice Department Requires Broad Divestitures to Resolve Challenge to UnitedHealth's Acquisition of Amedisys' (DOJ, 7 August 2025) www.justice.gov/opa/pr/justice-department-requires-broad-divestitures-resolve-challenge-unitedhealths-acquisition accessed 24 April 2026.

124 'The Finnish Competition and Consumer Authority proposes prohibition of a three-to-two merger in the healthcare sector' (Bird & Bird, 29 September 2020) www.kkv.fi/en/current/press-releases/the-fcca-proposes-the-market-court-to-prohibit-the-merger-between-mehilainen-and-pihlajalinna/ accessed 24 April 2026.

125 'Storytel AB withdraws merger notification regarding its acquisition of a 70% share in Forlagið' (Samkeppniseftirlitið, 23 December 2020) www.samkeppni.is/en/release/null/storytel-ab-withdraws-merger-notification-regarding-its-acquisition-of-a-70-share-in-forlagid/ accessed 24 April 2026.

126 Alex Bagley, 'Icelandic merger rules apply to private healthcare deals, court confirms' (GCR, 9 December 2022) https://globalcompetitionreview.com/article/icelandic-merger-rules-apply-private-healthcare-deals-court-confirms accessed 24 April 2026.

Gönenç Gürkaynak is Founding Partner of ELIG Gürkaynak Attorneys-at-Law (Istanbul); Professor of Practice at University College London (UCL) Faculty of Laws; Senior Research Fellow at the Centre for Law, Economics & Society (CLES) at UCL Faculty of Laws; and a member of faculty at Bilkent University Faculty of Law (Ankara).

Dilara Yeşilyaprak Akay is a counsel at ELIG Gürkaynak Attorneys-at-Law.

Gülbin Serin is an associate at ELIG Gürkaynak Attorneys-at-Law.