

Guideline on Competition Infringements in Labor Markets Has Been Published

4 Dec 2024

On 03.12.2024, the long-awaited Guideline on Competition Infringements in Labor Markets ("**Guideline**") is announced to be adopted on the Turkish Competition Authority ("**Authority**") website. The Guideline may be accessed through [this link](#) and the Announcement through [this link](#).

As you may recall, on 16.09.2024, the Draft Guideline on Competition Infringements in Labor Markets ("**Draft Guideline**") was published and submitted to public opinion on the same date.

When the Guideline is analyzed, it is primarily seen that the Authority aims to create a healthy competitive environment in Türkiye and emphasize on the importance of competition in labor markets. Indeed, it may be noted that the Guideline has incorporated the jurisprudence of the Turkish Competition Board ("**Board**") and now the rules and caselaw are aligned. The Guideline indicates that any agreements or concerted practices conducted between employers that have the object or effect of fixing wages, working conditions or causing employers to refrain from employing each other's current or former employees will be considered as a violation of Article 4 of the Law No. 4054 on the Protection of Competition ("**Law No. 4054**").

In addition, it is emphasized that the principles in the Guideline will be applied within the framework of Articles 5, 6, and 7 of Law No. 4054; however, wage fixing and non-solicitation agreements in labor markets and information exchanges for the object of restricting competition will not benefit from the group exemption and/or individual exemption.

Although there is no significant difference between the Guideline and the Draft Guideline, there are two elements not previously put forth in the Draft Guideline:

- It is clearly stated that competitively sensitive information exchanges regarding the labor market **will not have anticompetitive effects** under certain conditions that are listed under paragraph 28 of the Guideline and submitted for your review in the below section in cases where:
 - The exchange of information is conducted by an independent third party (e.g. a research company),
 - It is not possible to understand the source of data or from whom data is collected,
 - The information subject to the exchange of information is at least three (3) months old,
 - The information contains data from at least ten (10) participants/entities; and
 - No participants' data has more than 25% weight in the total data.
- While it was stated in the Draft Guideline that Article 6 of Law No. 4054 (abuse of dominant position) related assessment will be made on whether the undertaking subject to investigation is in a dominant position both (i) in the relevant product or service market in which it operates and (ii) in the relevant labor market, the Guideline also provides that the evaluation, will be conducted by taking into account all specific conditions and characteristics of the case within the scope of each investigation.

On the other hand, it is stated in the Announcement that the principles introduced by the Guideline will be discussed in a webinar to be held on 13.12.2024 between 14:00 - 15:30 and that the participants can register for the webinar via the registration form included in the Announcement.

With the adoption of the Guideline, it is envisaged that the Board's approach will be more specific and predictable, especially in competitively sensitive information exchange cases regarding labor markets, and that the Board will continue to scrutinize labor markets as closely as in recent years.

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