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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Information Sharing in Competition Policy – Note by Türkiye

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Türkiye

1. This contribution, prepared by the Turkish Competition Authority (TCA), introduces Türkiye's legal and enforcement framework for information exchange in competition policy, with particular focus on Board Decision No. 24-20/466-196 of 24 April 2024 concerning five French-origin private high schools in Istanbul. References to the Guidelines on Horizontal Cooperation Agreements (2013) and the Guidelines on Competition Infringements in Labour Markets (2024) are made where they illuminate the legal framework applied in the case.

1. Legal Framework: Article 4 and Information Exchange

2. Article 4 of Act No. 4054 (Act No. 4054) on the Protection of Competition prohibits agreements, concerted practices, and decisions of associations of undertakings that have as their object or effect the prevention, restriction, or distortion of competition. The provision covers both output and input markets without a distinction; as the General Reasoning of the Act makes it clear that, the protection of competitive conditions in labour markets is as essential as in product markets, since labour is a key input whose competitive pricing directly affects undertakings' costs and, through them, product market outcomes.

3. Under the Turkish competition law, information exchange does not need to be ancillary to a broader cartel arrangement to constitute a standalone infringement. The TCA's Guidelines on Horizontal Cooperation Agreements confirm that information exchange "may also be assessed as a restrictive agreement or concerted practice within the scope of Article 4" whenever the exchange of competitively sensitive data reduces market uncertainty and facilitates anticompetitive coordination. The exchange of information may form the core subject of an agreement, or it may form part of another horizontal agreement.

4. The legal concept of agreement under Article 4 is interpreted broadly. No formal requirements of writing, civil law validity, or binding force apply. An oral accord, meeting minutes approved by participants, or conduct that implies alignment with a shared understanding may each constitute an agreement. What matters is the existence of a concurrence of wills between undertakings to act in a way that restricts competition.

2. The French High Schools Case: Background and Market Definition

5. Following a confidential complaint received in June 2022, the TCA launched a preliminary inquiry and subsequently opened a formal investigation into five French-origin private secondary education institutions operating in Istanbul: Saint-Joseph Private French High School, Saint Benoît Private French High School, Notre-Dame de Sion Private French High School, Saint-Michel Private French High School, and Sainte Pulchérie Private French High School, (collectively, the "French High Schools"). The investigation was concluded by Board Decision No. 24-20/466-196 dated 24 April 2024.

6. The TCA identified two separate relevant markets. The primary output market was *the market for private secondary education delivered primarily in French in Istanbul*. The unique characteristics of the French High Schools that are their historical roots dating to the nineteenth century, their recognition under the Treaty of Lausanne, their FrancEducation Certificate accreditation, the equivalence of their diplomas with the French

Baccalauréat, and their exclusive enrollment quota at Galatasaray University, made demand-side substitution with other private schools essentially impracticable for families seeking French-language secondary education with access to European universities. The second distinct market was identified on the input side: *the labour market for Turkish teachers employed at these institutions*.

7. The narrow and homogeneous nature of these markets is particularly significant with regard to information exchange. With only five competing providers in the output market and a limited pool of qualified teachers in the input market, the market conditions — including high transparency, structural stability, and symmetry in cost conditions — were especially conducive to coordination and anticompetitive information exchange.

3. Information Exchange in the Output Market: Enrollment Fees and Scholarships

3.1. Nature and Mechanism of the Exchange

8. The TCA’s investigation revealed a sustained pattern of information exchange and coordination on enrollment fees and scholarship conditions through several complementary channels.

9. School principals held periodic meetings where enrollment fee strategies and scholarship policies were discussed and aligned. Minutes of these meetings were circulated among all schools for approval, forming a contemporaneous documentary record of the concurrence of wills. E-mail correspondence between senior personnel revealed the sharing of an “enrollment protocol” signed by all principals a) on the coordination of scholarship rates (e.g., siblings: 10%; school staff: 50%; teachers from other schools: 10%), b) on the prohibitions of offering scholarships above those rates, calling parents to persuade them through scholarship offers and refunding the 10% enrollment deposit, c) on the dates of future meetings. The minutes of principal meetings included commitments to manage enrollment “with the principle of non-competition” and instructions not to poach families from competing schools by offering higher scholarships or reimbursing deposits.

3.2. Assessment as a Restriction by Object

10. The TCA assessed the coordination of enrollment fees and scholarship conditions as a cartel constituting a restriction by object under Article 4. The Guidelines on Horizontal Cooperation Agreements provide that exchanges of future pricing strategies or plans are “generally” treated as equivalent to price-fixing and constitute a cartel for fine calculation purposes. No separate market effects analysis is required once an exchange is characterised as having a restrictive object.

11. The fundamental rationale is that uncertainty about competitors’ future conduct is the engine of market competition. When competing undertakings share forward-looking information about prices, scholarship conditions, or other commercial parameters, they substitute coordination for competition. The resulting outcome, that is aligned pricing without independent decision-making, is presumptively harmful regardless of whether actual market effects can be measured.

4. Information Exchange in the Input Market: Teacher Wages

4.1. The Salary Coordination Mechanism

12. The most probative evidence in the French High Schools case consisted of documents obtained during simultaneous on-site inspections were: e-mail correspondence (including the signed enrollment protocol), meeting minutes circulated for approval, salary simulation files distributed to accounting officers with requests for comment, and payroll charts prepared by the TCA from actual payroll data confirming alignment with simulation figures. The TCA assessed this evidence holistically and all the evidence formed a mutually reinforcing body of evidence.

13. Many documents were found during the on-site inspections showing that in September 2022, the accounting officers of all five schools convened to examine each school's salary calculation methodology. A salary "simulation" was subsequently shared among all schools, providing a standardised framework for the calculation of Turkish teacher remuneration covering base salary, job difficulty allowances, education compensation, and additional course fees. The TCA's analysis of payroll data submitted by the schools during the investigation confirmed that the simulation figures were used as a reference in actual salary determinations.

14. The parties argued that wage coordination was necessitated by economic pressures arising from high inflation and the growing gap between the TL-denominated salaries of Turkish teachers and the EUR-denominated salaries of French teachers (the latter being determined by the French Government). The TCA acknowledged the macroeconomic context but rejected the defence on the grounds that competing employers may face similar economic pressures without being entitled to respond collectively. Even if it is assumed that the schools did not implement the simulated salary levels, the collective wage-setting conduct, as a form of information exchange that eliminated competitive uncertainty about personnel costs, constitutes an infringement by object.

4.2. Significance for Competition Policy

15. The input market finding is significant for several reasons. First, it confirms that wage-fixing is equivalent to output price-fixing: both involve the joint determination of a key commercial parameter that would otherwise be subject to independent competitive decision-making. Second, labour costs constitute a significant component of total costs in the education sector; coordination on teacher wages homogenises cost structures across competing schools and thereby facilitates further coordination in the output market.

5. Safe Harbours and Permissible Information Exchange

16. Turkish competition law does not establish formal safe harbour thresholds for information exchange equivalent to the EU's horizontal block exemptions.

17. The Horizontal Cooperation Guidelines provide a detailed framework for effects-based assessment of information exchanges, taking into account: the characteristics of the relevant market (transparency, concentration, stability, symmetry and complexity); the nature of the information exchanged (whether it relates to prices, quantities, costs, capacities, strategies, or future plans); whether the data is aggregated or firm-specific; the age of the data; the frequency of exchange; and the degree to which the exchange covers the relevant market. The French High Schools case illustrates how these factors can exist at the same time: the market was narrow and highly concentrated, the information shared

was firm-specific and forward-looking, the exchange was direct and recurrent, and it covered all five market participants, covering the entire relevant market.

18. After the conclusion of the case, TCA adopted The Labour Markets Guidelines (Decision No. 24-49/1087-RM(4), adopted 21 November 2024). The Labour Markets Guidelines identify two primary infringement types in labour markets: wage-fixing agreements and no-poach agreements. Both are characterised as by-object restrictions equivalent to their output-market counterparts, namely price-fixing and market/customer allocation respectively, and are treated as cartels for fine calculation purposes. A third category, information exchange, is addressed separately: such exchange may constitute either a standalone infringement or a facilitating element of a broader wage-fixing or no-poach arrangement.

19. Information categories identified in the French High Schools case such as wages, salary increase rates, working hours, benefits, severance entitlements, non-compete obligations, and leave rights falls within the category of competitively sensitive information in the Labour Markets Guidelines. An exchange of such information has anticompetitive object or effect in the labour market in the same way as price-related exchanges in product markets.

20. The Labour Markets Guidelines establish a specific safe harbour for information exchange in the labour market context. An exchange is presumed not to produce competition-restricting effects if all of the following five conditions are met cumulatively: (i) the exchange is conducted by an independent third party; (ii) it is not possible to identify the data source or individual data content; (iii) the information relates to a period at least three months in the past; (iv) the data incorporates information from at least ten participants; and (v) no single participant's data accounts for more than 25% of the total dataset. The salary simulation shared in the French High Schools case met none of these conditions: it was shared directly between competing schools, contained firm-specific data, and covered real-time salary parameters.

21. Exchanges that do not meet all five conditions are not automatically presumed restrictive; they remain subject to case-by-case assessment. Truly public information, that is information accessible at equal cost to all market participants, is generally not regarded as raising concerns under Article 4. The TCA notes, however, that even publicly available data can facilitate collusion when shared among competitors in a concentrated, stable oligopoly, as it allows competitors to verify each other's compliance with a coordinated outcome.

6. Conclusion

22. The Turkish Competition Authority's experience in the French High Schools case and the subsequent adoption of the Labour Markets Guidelines yield several observations of relevance to the Roundtable's comparative discussion.

- Information exchange as a standalone infringement: The TCA's practice confirms that information exchange constitutes a self-standing infringement under Article 4 without requiring proof of a broader cartel agreement.
- By-object treatment: Where information exchange involves forward-looking competitively sensitive data such as pricing strategies, wage levels and scholarship conditions, it is assessed as a restriction by object. No separate effects analysis is required, and the probability of exemption as described in the Guidelines is very low.

- The finding establishes that competition authorities are equipped to address labour market coordination without awaiting legislative change, the existing Article 4 framework is sufficient.
- Simultaneous output and input market infringements: A single coordinated scheme can violate competition law in both markets. Wage-fixing is not merely a side-effect of price coordination; it is an independent infringement and may itself facilitate further coordination in the output market by homogenising cost structures across competitors.
- Holistic evidentiary assessment: Individual documents may not suffice on their own, but a body of contemporaneous evidence, including meeting minutes, shared simulations, e-mail correspondence, and ex-post alignment data, can collectively establish an infringement where each element reinforces the others.
- Safe harbour for labour market benchmarking: The five-condition safe harbour in the Labour Markets Guidelines provides operational guidance for survey providers, HR platforms, and sector associations, balancing the legitimate value of aggregated benchmarking against the coordination risks of firm-specific data exchange.

Annex A. Case Summary, Board Decision No. 24-20/466-196

Decision No.: 24-20/466-196

Date: 24 April 2024

File No.: 2022-5-036

Parties: Saint-Joseph Private French High School, Saint Benoît Private French High School, Notre-Dame de Sion Private French High School, Saint-Michel Private French High School, and Sainte Pulchérie Private French High School

Infringements: (i) Joint determination of enrollment fees and scholarship conditions, cartel, by object; (ii) Joint determination of Turkish teacher wages, cartel, by object

Fines: ~17.8 million TL (output market) + ~11.5 million TL (input market) + 105,688 TL for submitting false information (Saint-Joseph Private French High School only)

Key instruments cited:

- Act No. 4054, Article 4
- Guidelines on Horizontal Cooperation Agreements (Decision 13-24/326-RM(6), 30 April 2013)
- Guidelines on Competition Infringements in Labour Markets (Decision 24-49/1087-RM(4), 21 November 2024)