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# **First Implementation of the Settlement Mechanism Upon the Recent Publication of the Settlement Regulation**

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As known, the Law No. 4054 on the Protection of Competition (“Competition Law”) had undergone amendments with the Law No. 7246 dated June 16, 2020, introducing the settlement mechanism to Article 43. In line with this, the Regulation on the Settlement Procedure for Investigations on Anticompetitive Agreements, Concerted Practices, Decisions and Abuse of Dominant Position ("Settlement Regulation") was recently published in the Official Gazette dated July 15, 2021 and numbered 31542, entering into force on the same day.

Within the scope of the settlement mechanism stipulated under Article 43 of the Competition Law, after initiating an investigation, the Turkish Competition Authority (“TCA”) may, on the request of the parties concerned or ex-officio, start the settlement procedure until the service of the investigation report (also known as statement of objections), the TCA may reach a settlement with the undertakings and associations of undertakings under the investigation, thereby concluding the investigation with a settlement decision for the parties involved in the settlement.

Not long after the enactment of the Settlement Regulation, the TCA announced the first implementation of the settlement mechanism with its decision dated August 5, 2021 and numbered 21-37/524-258, thus concluding the investigation initiated against (i) Türk Philips Ticaret A.Ş., (ii) Dünya Dış Ticaret Ltd. Şti., (iii) Melisa Elektrikli ve Elektronik Ev Eşyaları Bilg. Don. İnş. San. Tic. A.Ş., (iv) Nit-Set Ev Aletleri Paz. San. ve Tic. Ltd. Şti. and (v) GİPA Dayanıklı Tüketim Mamülleri Tic. A.Ş. The said investigation was launched seven months ago, with the TCA’s decision dated January 7, 2021 and numbered 21-01/9-M in order to determine whether these undertakings have violated Article 4 of the Competition Law by way of restricting online sales and determining resale prices of authorized sellers.

The short form announcement of the settlement decision has been published on the TCA’s website on August 9, 2021, stating that the relevant settlement decision has been rendered for every undertaking subject to the investigation upon their settlement letter submissions. With this, even though the specifics are not provided within the announcement, as per the nature of the settlement mechanism, it can be concluded that the relevant undertakings have acknowledged their violation and committed not to appeal the decision, thus resorted to a rapid resolution of the process, which would have procedural benefits for all parties involved, including the TCA. As per the Settlement Regulation, the settlement parties should have been imposed an administrative monetary fine reduced by a rate between 10% and 25%. However, the relevant announcement does not give place to any explanation on how much reduction was implemented and the final amount of monetary fine

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that was rendered.

Nevertheless, this decision holds particular importance as it is the first example of the settlement mechanism, which will hopefully pave the way for future investigations. That being said, the details that will shed light to any uncertainties will be revealed with the publication of the reasoned decision. Similar to the value of the settlement procedure in the European Union legislation, the significance of this mechanism in Turkey will be increasing with each passing implementation.