
Q&A with Dr. Fevzi Toksoy and Bahadir Balki

Dear Reader,

We felt a need to compile this Q&A focusing on technology undertaking exception in the Turkish merger control regime.

A special local turnover threshold exception was introduced for concentrations involving technology undertakings. The complication that comes with this (let's call it) the Turkish version of the "value of transaction" test to address the killer acquisitions is that it is rather vague and creates legal uncertainty as to the criteria of what constitutes a "technology undertaking" and hence, whether the transaction is notifiable. The TCA is left with the sole discretion in determining if you are a technology undertaking or not. Some guidance comes with the existing cases, although those are not sufficient yet.

We present the highlights of some of those cases to help you to understand the local threshold exception in Turkey better. The main conclusion that may be drawn from those is that when the target to a concentration generates turnover in Turkey by any means, it is highly recommended its activities in other jurisdictions be assessed carefully to verify if those fall under the technology undertaking definition. If there is the slightest chance that it may be viewed as a technology undertaking, it better be notified to the TCA. The special issue of the Output starts with a Q&A section, compiling our thoughts on the "technology undertaking" exception with concrete examples and moves onto the business articles from ACTECON team delving into Turkish merger control regime's thresholds, tech undertakings, substantive test and more.

We remain at your service if you would require any Turkey specific advice in the areas of competition rules, international trade and regulations.

Sincerely,

Fevzi and Bahadir