

Decision in *Panagro*: The Competition Board Imposes a Fine Directly on the Company That Obstructed the On-Site Inspection, Rather Than on the Economic Entity.

The Turkish Competition Board (“**Board**”) conducted an on-site inspection at Panagro Tarım Hayvancılık Gıda Sanayi ve Ticaret A.Ş. (“**Panagro**”) and Panek Ziraat Aletleri Dayanıklı Tüketim Malzemeleri Otom. Yakıt Petrol Ürünleri Tarım Ticaret A.Ş. (“**Panek**”), both part of the same economic entity. Due to the deletion of data by an employee of Panagro, the Board imposed an administrative fine solely on Panagro, rather than on the entire economic unity.¹

A. Decision in *Panagro*

The Turkish Competition Authority (“**Authority**”), within the scope of a preliminary investigation initiated to determine whether Article 4 of the Turkish Competition Act No. 4054 (“**TCA**”) had been violated in the markets for raw milk procurement, sales of dairy feed, and production and sales of milk and dairy products, conducted an on-site inspection on February 18, 2025, at the premises of Panagro and Panek, which are located at the same address and part of the same economic entity.

During the inspection, a Panagro employee presented a mobile device, stating that it was the only one in use. However, the Authority later discovered that the same employee had also possessed another device, from which certain WhatsApp messages had been deleted after the inspection had commenced.

The Board established that the deletion occurred after the inspection began and, in line with its established case law, concluded that this conduct amounted to obstructing and/or hindering the inspection.

Although the inspection was also conducted at Panek, which is part of the same economic entity as Panagro, the Board refrained from imposing a fine on Panek or the Anadolu Birlik, part of the

same economic unit, because the employee responsible for the deletion exclusively worked for Panagro. To sum up, the Board focused on the individual company responsible for obstructing the inspection, rather than the larger economic group to which it belongs, when deciding on the fine.

B. Relevant Previous Board Decisions

The question of whether the administrative fine for obstructing an on-site inspection should be applied to the economic entity or to the individual company responsible for the act has also been addressed in other recent Board decisions

In its decision in *Biota*², the Board determined that the Biota employee who carried out the data deletion also held a position within another group company, Derma Cos İlaç. The Board further included Derma Cos Kozmetik, another group company, within the scope of responsibility, reasoning that it was not possible to separate it from Biota due to their shared premises and common management and organizational structures. Accordingly, the Board held not only Biota but also Derma Cos İlaç and Derma Cos Kozmetik responsible for the obstruction of the on-site inspection.

¹ The Competition Board’s Decision No. 25-17/407-188 dated 30.04.2024
<https://www.rekabet.gov.tr/Karar?kararId=2b3112d7-4c6d-409c-b838-7595e6fbcf98> (Date of Access: 08.09.2025).

² The Competition Board’s Decision No. 24-38/898-385 dated 19.09.2024
<https://www.rekabet.gov.tr/Karar?kararId=18a50e99-e288-4843-966f-b95534b1fee2> (Date of Access: 08.09.2025).

In its decision in *Ülker*³, the Board conducted a dawn raid at the shared premises of Ülker Bisküvi, Horizon, and Pasifik, which were part of the same economic entity, found that the employees of Horizon and Pasifik deleted certain data during the inspection. Although all three companies operated in the same premises, the Board did not impose liability on the economic unity as a whole, including Ülker Bisküvi. Instead, it held Horizon and Pasifik separately responsible for the acts committed by their respective employees, and imposed administrative fines on each based on their turnovers.

C. Conclusion

In considering the Board's decision in *Panagro* together with its decisions in *Biota* and *Ülker*, it is possible to conclude that the Board tends to impose a fine only on the company to which employs the person obstructing the on-site inspection, rather than the entire economic entity. However, the Board may also hold other

companies within the same economic entity liable for obstructing the on-site inspection based on the position and scope of duties of the employee committing the violation, and whether he or she also works for other group companies. Additionally, the fact that the company committing the violation and those other group companies operating at the same address and sharing common management and organizational structures may lead to extending the scope of liability for obstructing the on-site inspection to those other group companies.

Based on the Board's aforementioned approach, it is advisable for undertakings to consider competition law risks when integrating the workplaces and management structures of group companies. In particular, it should be taken into account that managers or employees holding positions in multiple group companies may lead to the extension of liability for obstruction of the on-site inspection to other companies within the same economic entity.

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³ The Competition Board's Decision No. 22-53/797-327 dated 01.12.2022
<https://www.rekabet.gov.tr/Karar?kararId=2fc36564-2f13-41ee-8b88-c9259c86934f> (Date of Access: 08.09.2025).