

Merger Control In The EU and Turkey: A Comprehensive Guide



Merger control is a crucial aspect of competition law in both the European Union (EU) and Turkey. In an ever-evolving business landscape, mergers and acquisitions can significantly shape the competitive environment and have a profound impact on consumers. Therefore, it becomes essential to understand

the regulatory framework and procedures concerning merger control in these regions.

The EU Merger Control

The EU merger control regime aims to ensure that mergers and acquisitions do not harm competition within the European Single Market. The centralized regulatory authority responsible for enforcing merger control is the European Commission (EC). Any merger that meets certain turnover thresholds must be notified to the EC for clearance before it can proceed.



Merger Control in the Eu and Turkey: A Comparative Guide (International Competition Law Series, 78) by Torsten Haß (Kindle Edition)

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The EC assesses mergers based on their potential for significantly impeding competition in the EU market. Factors considered include market concentration, barriers to entry, and the ability of the merged entity to exert market power. If it is determined that a merger could lead to a substantial reduction of competition, the EC can either prohibit the merger or require remedies to address the concerns identified.

Merger Control in Turkey

In Turkey, the regulatory framework for merger control is governed by the Law on the Protection of Competition (Law No. 4054). The primary authority responsible for enforcing merger control is the Turkish Competition Authority (TCA). The TCA evaluates mergers based on similar principles as the EU, ensuring that they do not significantly harm competition in the Turkish market.

Under Law No. 4054, mergers and acquisitions that meet certain thresholds must be notified to the TCA before they can be implemented. The TCA assesses mergers by considering factors such as market concentration, market dynamics, and the efficiency gains that may arise as a result of the merger. If a merger raises concerns regarding competition, the TCA can impose conditions or even prohibit the merger outright.

The Importance of Regulatory Compliance

Complying with merger control regulations is of utmost importance for companies involved in mergers and acquisitions. Failure to comply can result in significant financial penalties and legal consequences. Additionally, non-compliance can lead to reputational damage and loss of consumer trust.

By ensuring compliance with merger control regulations, companies can mitigate the risks associated with anticompetitive behavior and monopolistic practices. It allows for fair competition, encourages innovation, and ultimately benefits consumers by offering a wider range of choices.

Challenges and Considerations

The complexity of merger control procedures in both the EU and Turkey presents challenges for companies involved in cross-border transactions. Companies must

navigate through multiple jurisdictions, comply with different regulations, and coordinate their efforts with various regulatory authorities.

Furthermore, cultural differences and varying business practices can pose additional challenges when executing mergers and acquisitions between EU countries and Turkey. Thorough due diligence and comprehensive understanding of the local markets are crucial for successful integration and compliance with merger control requirements.

Merger control is an integral part of maintaining fair competition and safeguarding consumer interests in the EU and Turkey. Understanding the regulatory framework and complying with merger control requirements are essential for companies looking to engage in merger and acquisition activities in these regions.

By adhering to these regulations, companies can strive for a level playing field and contribute to overall market efficiency. Proper compliance not only protects the company from legal consequences but also ensures the long-term growth and sustainability of the business.



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As a country on the way to integration with the European Union (EU), Turkey has been following EU principles in establishing and improving its merger control regime, as well as overall competition law, keeping pace with changes in relevant EU legislation and case law. However, as is to be expected, specific adjustment needs engender significant differences in the two regimes. This book presents, for the first time, a description and analysis of the relationship between the EU and Turkish merger control law and practice.

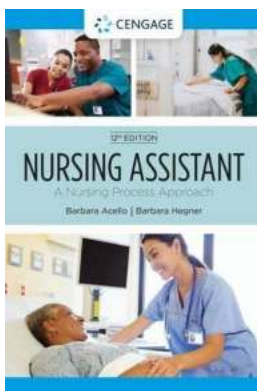
The authors--all three both practicing lawyers and academicians in Turkey--focus on comparing substantive, procedural and jurisdictional issues and draw parallels on their regulation in the two jurisdictions. These matters include the following:

- determining whether a transaction shall be regarded as a notifiable merger, hence be subject to control;
- financial thresholds used for allocating jurisdictions;
- extraterritoriality of merger control;
- relationship between the significant impediment to effective competition (SIEC) test and the dominance test;
- determination of the relevant market;
- techniques used for assessment of horizontal and non-horizontal mergers;
- notification requirements;
- procedural duties of competition authorities in relation to remedies;
- third-party rights;

- gun-jumping fines and other sanctions for failure to comply with merger control requirements; and
- peculiarities of assessment of mergers in the big data world.

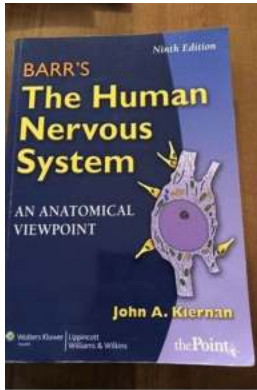
Each chapter provides an overview of the respective issues in the EU and Turkey, projecting a clear understanding of the main similarities and differences in the two regimes. A notable feature is an in-depth analysis of applicable case law concerning each issue, with most of the Turkish decisions available in English for the first time.

In addition to these practical issues, the book's comparative approach will prove to be of great value. With its clear answers to questions about what transactions are subject to merger control, what criteria are used in assessing those transactions, and the main issues that a foreign company should be aware of while merging with another foreign company with effect in Turkey and/or EU, the book will be of immeasurable value for lawyers and their business clients dealing with multijurisdictional merger cases. Interested academics and policymakers will also find much here to attract their attention.



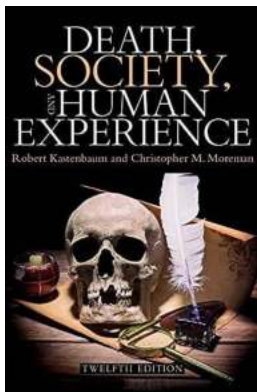
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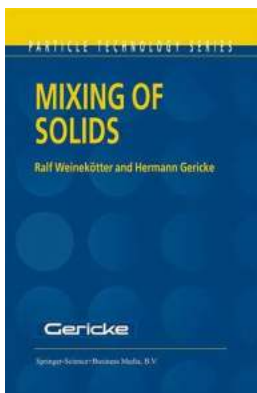
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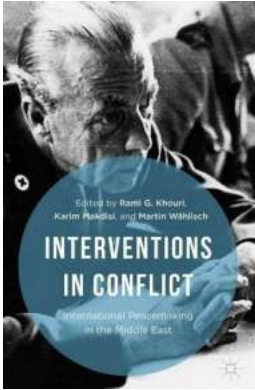
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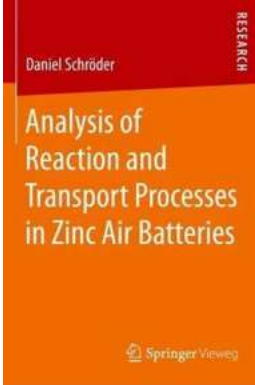
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