

COMPENSATION IS NOT LIMITED WITH THE DAMAGE AMOUNT, ACCORDING TO THE TURKISH COMPETITION RULES.

In Civil Law and Common Law System, the fundamental of the compensation are separated from each other. In Civil Law System, the punishment of person or persons who cause harm and the prevention of similar behaviour are the adopted remark in determining the compensation of competition law. Meanwhile in Common Law, the logic of compensation for damage, adopted comment in the determination of compensation.

However, the compensation for the Turkish law, when the damage is indemnified, the injured party should not cause unjust enrichment. In other words, the main objective of compensation is not punishment of the person's causing loss, but compensation for the loss.

According to the Turkish Compensation. Law No 4054 of December 12, 1994, on the Protection of Competition Article 57, covenants not to compete, concerted action, association of undertaking's decision, The Article regulates that they are obliged to compensate for damages caused by those who come to dominate in a market and cause the restriction of competition by abusing the dominant position.

Compensation for the Damage Article 58:

“Those who suffer because of the prevention, distortion or restriction of competition, may claim as a damage the difference between the cost they paid and the cost they would have paid if competition had not been limited. Competing undertakings affected by the limitation of competition may request that all their damages are compensated by the undertaking or undertakings which limited competition. In determining the damage, all profits expected to be gained by the injured undertakings are calculated by considering the balance sheets of the previous years as well.

If the resulting damage arises from an agreement or decision of the parties, or from cases involving gross negligence of them, the judge may, upon the request of the injured, award compensation by three-fold of the material damage incurred or of the profits gained or likely to be gained by those who caused the damage.”

By operation of law, when entities abuse the dominant position, aggrieved parties can be demanded to claim compensation up to three times. In addition, only loss is not taken as basis when calculating the compensation here. As is clearly seen in the Article 58, person who sustains material damage or it is possible under competition law to claim compensation at a rate three times that of profits earned or likely to be obtained by those who caused the damages by abusing the dominant position. In this regard, for people who abuse the dominant position, it is not necessary to gain profit. The probable profits are also included in the compensation account.

In conclusion, the regulation of Turkish Law on the Protection of Competition and deterrence of competition law, in the Competition Law, punishment compensation is adopted in terms of deterrence.

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