

The Samsung Decision

A New Direction (or Not?) in the Turkish Competition Authority's Approach to the Obstruction or Hindrance of On-Site Inspections

The decision of the Turkish Competition Authority (“the Authority”) dated 10 April 2025 and numbered 25-14/330-157, publicly announced on 20 October 2025 (“the Samsung Decision”), introduces an assessment that significantly diverges from the Authority’s established approach regarding the obstruction or hindrance of on-site inspections.

In the decision, despite the finding that certain employees of the undertaking had left several company communication groups on the internal application (Knox Teams) after the commencement of the inspection, resulting in the automatic deletion of certain messages, the Authority did not qualify this conduct as an obstruction or hindrance to the on-site inspection.

This outcome represents a departure from the long-standing practice reflected in the Authority’s previous decisions such as Unmaş¹, Savola², İstanbul Gübre Sanayi³, Kınık Maden⁴, Natura Gıda⁵, Çimsa⁶, Kalekim⁷, AGCO⁸, Epson Italia⁹, Susa¹⁰, and Pirelli¹¹.

1) The Authority’s Established Approach

a) A Single Deletion Act Is Sufficient

According to the Competition Authority’s established case law, even a single act of deletion performed after the commencement of an on-site inspection has been deemed sufficient to constitute obstruction or hindrance. Such acts include, but are not limited to, the deletion of WhatsApp messages, leaving a group chat, deleting emails or folders, and even using functions such as “delete for everyone.”

In the Unmaş, Çimsa, and Kalekim decisions, the Authority concluded that once a data deletion action was established, the infringement was deemed to exist regardless of the intent, content, or quantity of the deleted material.

b) The Nature of the Deleted Content Is Irrelevant

In the Natura and Çimsa decisions, the Authority rejected the undertakings’ claims that the deleted data contained insignificant or irrelevant content, holding instead that the mere violation of evidentiary integrity was, in itself, sufficient to constitute obstruction or hindrance of the on-site inspection.

¹ Unmaş Decision - Decision No. 21-26/327-152, dated 20 May 2021

² Savola Decision - Decision No. 21-34/452-227, dated 8 July 2021

³ İstanbul Gübre Sanayi Decision - Decision No. 21-38/544-265, dated 12 August 2021

⁴ Kınık Maden Decision - Decision No. 22-11/161-65, dated 3 March 2022

⁵ Natura Gıda Decision - Decision No. 22-41/599-250, dated 8 September 2022

⁶ Çimsa Decision - Decision No. 23-06/74-23, dated 26 January 2023

⁷ Kalekim Decision - Decision No. 24-19/416-169, dated 18 April 2024

⁸ AGCO Tarım Decision - Decision No. 24-19/404-161, dated 18 April 2024

⁹ Epson Italia Decision - Decision No. 23-48/910-324, dated 12 October 2023

¹⁰ Susa Gıda Decision - Decision No. 23-46/872-309, dated 28 September 2023

¹¹ Pirelli Decision - Decision No. 25-21/497-332, dated 28 May 2025

c) The Recovery of Deleted Data Does Not Alter the Outcome

In the Savola, Epson, and Pirelli decisions, the Authority held that the subsequent recovery of deleted data through forensic methods did not change the conclusion regarding obstruction.

This principle was explicitly reinforced in the Unmaş decision, which stated that “to decide otherwise would amount to rewarding undertakings that delete data without being detected.”

2) The Facts of the Samsung Decision and the Majority’s Reasoning

During the on-site inspection conducted at Samsung’s premises on 4 March 2025, the Competition Authority identified that certain employees had left several chat groups within the company’s internal messaging application, Knox Teams, after the inspection had commenced. Due to the technical features of the application, this action automatically resulted in the deletion of the relevant groups and their message history.

Nevertheless, the Authority’s majority decision concluded that this conduct did not constitute an obstruction or hindrance to the on-site inspection, on the following grounds:

- The automatic deletion of messages was a technical consequence of leaving a group under the application’s inherent functionality,
- The same conversations were accessible from other group members’ devices, ensuring the availability of the relevant data and,
- The deleted content contained no evidence or material related to the subject matter of the investigation.

Accordingly, the Authority determined by majority vote that the incident did not meet the threshold for obstruction or hindrance of the on-site inspection.

3) Dissenting Opinions

The dissenting members of the Board argued that, for the sake of consistency with the Authority’s previous decisions, the incident in question should have been regarded as an obstruction or hindrance to the on-site inspection. The dissenting opinion particularly emphasized the following points:

- The data deletion act (including the act of leaving the group) occurred after the commencement of the on-site inspection.
- The fact that the automatic deletion was caused by the technical functionality of the application, or that the deleted content could be accessed from other devices, does not alter the legal conclusion, as the integrity of evidence had already been compromised.
- The undertaking cannot be exempted from liability merely because its employees were not sufficiently informed about this issue; the duty of supervision and diligence remains with the undertaking itself.

The dissenting members referred to the Unmaş, İstanbul Gübre Sanayi, and judicial precedents¹², arguing that the approach adopted in the Samsung Decision is inconsistent with the established jurisprudence.

¹² Ankara 18th Administrative Court, Case No. 2022/318 E., Decision No. 2022/3134 K. and Ankara 11th Administrative Court, Case No. 2023/1037E., Decision No. 2023/1963K.

4) Conclusion

The Samsung Decision may be viewed as a softening of the Turkish Competition Authority's long-standing strict and objective-liability-based approach to the interpretation of obstruction or hindrance of on-site inspections.

Despite the existence of a data deletion act, the Board's consideration of content, intent, and actual outcome in refraining from finding an infringement suggests that the Authority may be shifting from an absolute to a contextual interpretation of the principle of evidentiary integrity.

In this respect, the decision appears to mark a turning point in the Authority's practice - indicating a potential search for a new balance between the Authority's protective stance over the integrity of on-site inspections and the principles of proportionality and reasonableness. Consequently, the Samsung Decision warrants close monitoring as it may shape the future trajectory of the Authority's enforcement policy regarding on-site inspections.

Respectfully submitted,

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