

OBSTRUCTION OF ON-SITE INSPECTIONS THROUGH DATA DELETION: COMPETITION BOARD PRACTICE AND THE SAMSUNG DECISION

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SUMMARY

The Competition Authority, under Article 15 of the Law No. 4054 on the Protection of Competition, is empowered to carry out on-site inspections at enterprises and associations of enterprises whenever necessary in the course of fulfilling its duties. To ensure the effectiveness of these inspections, the Competition Board takes a strict stance against any actions that hinder or complicate this authority, and specifically regards data deletion as obstruction of an on-site inspection, regardless of the nature of the deleted data or whether it can be restored.

However, decisions show that a distinction can be made between deletions performed intentionally by employees and those carried out automatically or by system processes; when data integrity is restored afterward, this strict approach may be relaxed.

The Samsung decision is noteworthy because it demonstrates that this distinction can be decisive in evaluating obstruction of an on-site inspection, and that the Board adopted an interpretation that deviates from its established approach. In light of the Samsung decision, it appears necessary to reconsider the Board's stance on preventing on-site inspections.

Keywords: Competition Authority, On-Site Inspection Authority, Obstruction of On-Site Inspections, Data Deletion and Automatic Deletion Processes.

INTRODUCTION

The authority to conduct on-site inspections, granted to the Competition Authority (“the Authority”), an independent and autonomous administrative body, is undoubtedly one of its most debated and significant powers. Determining which actions fall under the scope of obstructing an on-site inspection is of great importance. Experts of the Authority, empowered by the Competition Board (“the Board”), may conduct on-site inspections during their preliminary inquiries and/or investigations at companies and may encounter various obstructive or hindering behaviors from company employees. Behaviors that obstruct on-site inspections can generally be grouped as follows:

physical obstruction, delay, and deletion. Among these, the most hotly debated is the act of deletion. Deletion can occur intentionally, such as erasing certain documents, emails, or messages, or it can happen in a panic or out of concern during the inspection—for instance, leaving internal communication groups or mass deletion of emails or messages. According to established Board practice, what matters here is that from the moment Authority experts enter the enterprise premises until they leave, no actions should be taken that would complicate or prevent the inspection. Therefore, any deliberate deletion occurring after the inspection has commenced—regardless of whether deleted correspondences can be recovered or what their content may be—is considered an obstruction of the on-site inspection.

However, in certain decisions, the Board has deviated from its established case law and has found that some deletion and/or leaving a group actions are not sufficient to conclude that on-site inspection was obstructed. One of the most striking examples of this is the recent *Samsung Decision*¹, which will be examined in this study along with other decisions that demonstrate the Board's established practice, as well as those where it departed from that practice.

I. The Competition Authority's Powers of On-Site Inspection

The Law No. 4054 on the Protection of Competition ("Law No. 4054") not only sets out the fundamental rules of competition law but also outlines the powers of the Board. According to Article 15 of Law No. 4054, the Board is authorized to carry out on-site inspections to detect competition violations. Within this scope, experts working under the Board's authority are able to examine all kinds of data and documents, both physical and electronic, kept by undertakings and associations of undertakings, and may take copies and physical samples of such data. These experts are also empowered to review any content used within the undertaking, such as phones, computers, tablets, and other electronic devices, as well as physical files, documents, and planners.

On-site inspections are carried out by the Authority's experts based on an official written authorization. Those subject to inspection must, as required by Law No. 4054, ensure the inspection is conducted thoroughly and efficiently by the Authority's experts; they are also responsible for providing any requested information, documents, ledgers, or other records in their original or copy form. When necessary, the Authority's experts may also inspect employees' personal phones and email accounts.

II. Actions That Constitute Obstructing On-Site Inspections According to the Competition Board's Precedents

According to Law No. 4054, obstructing or hindering the Board's on-site inspections is subject to administrative fines. However, the law does not explicitly define which acts are considered to obstruct or hinder inspections; this issue has been clarified through Board decisions and established case law. A review of the Board's consistent practices shows that various types of conduct may constitute obstruction of on-site inspections.

In this context, these actions can generally be grouped into three main categories: physical obstruction, delay, and deletion. Each type of obstruction takes a different form depending on the category. Physical obstruction refers to situations where the experts assigned to conduct on-site inspections are prevented from accessing the relevant devices, documents, or information, either by making access difficult or by blocking it entirely. For example, denying the experts entry to the company premises, refusing to turn over computers, cell phones, or files, or when individuals who are supposed to provide information do not show up at the inspection site or leave during the process—all of these are considered physical obstruction.

On the other hand, actions that constitute delay include keeping the experts waiting at the building entrance, postponing the start of the inspection by offering various excuses, or deliberately slowing down access to information systems.

When reviewing the Board's decisions regarding obstruction of on-site inspections, it is evident that acts of deletion, the third category, are among the most common forms of obstruction in practice. Such actions are often described as "evidence destruction" or "compromising data integrity."

¹ Decision of the Competition Board dated 04/10/2025, numbered 25-14/330-157

Even when deleted data can be recovered, the prevailing view is that on-site inspections must be “unexpected,” “swift,” and “uninterrupted.” If these conditions are disrupted, penalties may be imposed. The Board’s approach to deletion actions will be examined in detail under the following heading.

III. The Competition Board’s Approach to Data Deletion and Exiting Groups

It is now established practice within the Board that deletion actions carried out during on-site inspections can hinder the assigned professionals’ access to potential evidence. Deletion may occur after the inspection begins—such as emails, documents, or files being erased from computers—or messages being removed from mobile phones, or even physical documents destroyed. With technology increasingly integrated into business life, most deletion actions are observed to take place on computers and mobile devices.

In the Board’s decisions concerning the obstruction of on-site inspections, even when deletion actions are not the sole issue in some files, it is observed that administrative fines are usually imposed due to behaviors that include such actions. The fact that most decisions result in administrative penalties for deletion acts indicates that the Board’s stance on these actions has become a well-established and consistent precedent. Established Board and Court

precedents **assign only limited significance to whether deleted data can be recovered later or to the nature of their content in relation to the specific case; the main trend is that simply carrying out the deletion itself is considered sufficient.** This was highlighted in the **Samsung Decision**, where Board members who dissented also pointed out this approach, arguing that such behaviors should be classified as obstructing the inspection. A tendency in this direction is apparent.² In fact, in the Samsung Decision, Board members who voted against also emphasized this and suggested that these actions should be considered as obstructing the on-site inspection.

Another notable aspect of the Board’s approach to deletion actions is its decision to disregard the underlying motivation for such actions. For example, in the *AbbVie Decision*, during an on-site inspection, an employee deleted WhatsApp messages believing the conversations pertained to a region outside of Turkey and were not within the scope of the review. However, the Board did not consider this defense and imposed an administrative fine on the company. Similarly, in the *P&G Decision*, messages were deleted from groups said to contain private conversations during an inspection, and again, the Board did not take the stated reason for deletion into account when issuing a penalty.

In the Board’s *Pasifik Decision* dated 12/01/2022, it was determined that 34 emails were deleted from an employee’s computer during an inspection. After the deleted emails were recovered, it was argued that the emails could not have been technically deleted as they still existed on the server, and therefore, the inspection was not obstructed. The Board, referencing previous administrative court decisions, emphasized that on-site inspections must by nature be “unexpected, swift, and uninterrupted.”

² Decision of the Competition Board dated 20.05.2021 and numbered 21-26/327-152
Decision of the Competition Board dated 08.07.2021 and numbered 21-34/451-226
Decision of the Competition Board dated 12.08.2021 and numbered 21-38/544-265
Decision of the Competition Board dated 08.09.2022 and numbered 22-41/599-250
Decision of the Competition Board dated 02.03.2023 and numbered 23-12/180-56
Decision of the Competition Board dated 11.05.2023 and numbered 23-21/407-138
Decision of the 13th Chamber of the Council of State numbered 2008/5890 E.,
2013/847 K. Decision of the Ankara 13th Administrative Court numbered 2013/1598
E., 2014/1495 K.

³ Decision of the Competition Board dated 05.10.2023 and numbered 23-47/898-318.

⁴ Decision of the Competition Board dated 07/08/2021, numbered 21-34/452-227.

⁵ Decision of the Competition Board dated 12/01/2022, numbered 22-53/797-32.

Stating its necessity, it was indicated that deletion actions carried out during the review amounted to “tampering with evidence” and were said to obstruct or complicate the investigation.

On the other hand, no Board decision has been found where simply leaving a message group alone resulted in an administrative fine. Since the main element intended to be preserved is actually the content, leaving the group without deleting its content doesn't really align with the usual course of events. However, in situations where both group messages are deleted and someone leaves the group to intentionally leave a digital trace, Board decisions show that leaving the group can also be considered punishable. For example, in the recent *Panagro Tarım Decision*⁶, the act of leaving the group was detected, but since deletes also took place in the specific case, leaving the group wasn't separately evaluated in the final decision. So, while it's not possible to draw a definite conclusion about the Board's stance on the act of leaving a group alone, it can reasonably be inferred that this act is seen as a less severe violation compared to deleting.

IV. The Samsung Decision and Other Relevant Competition Board Rulings

In the Competition Board's Samsung Decision dated 04/10/2025 and numbered 25-14/330-157, an assessment was made that diverges from the Board's established precedents. The ruling found that the only action taken was leaving a communication group. In Samsung's internal correspondence, it was noted that the company used a corporate communication app called “Knox Teams,” and, due to its technical setup, when someone leaves a group, the related chat records are automatically deleted.

During the on-site inspection carried out by the Authority, it was determined that a participant left the group and, as a result, the messages were automatically deleted by the system. However, when the Authority's experts examined the devices of other employees in the same group, they were able to access the conversations, and no evidence was found that could constitute a violation related to the investigation. In this context, the Board, diverging from its established precedent, did not consider leaving the group and the resulting automatic deletion of chats, along with the lack of investigation-related evidence on other devices, as an obstruction of the on-site inspection.

This exceptional decision requires evaluation in terms of established precedent. In this regard, the ruling will be discussed along two main axes. First, from the perspective of established precedent, the act of 'deletion' is generally considered the primary offense. As is known, during on-site inspections, suspicious acts often manifest as leaving business or private groups created on communication channels (typically WhatsApp), deleting messages, or destroying files on devices. In the Samsung decision, due to the use of a specialized application for messaging, leaving a work group automatically resulted in deletion. Therefore, the principal offense should not be interpreted as simply leaving WhatsApp groups. Indeed, in the case, the employee only left the group, but the Board still classified the act—even if automatic—as a 'deletion act.' For instance, in the Board's 13.04.2023 İpek Gıda Decision⁷, two separate deletion behaviors were examined, and in one, the WhatsApp chat content was found to be empty; however, since log records were inaccessible, it was not considered as an obstruction of the on-site inspection. On the other hand, on another employee's mobile device,

⁶ Competition Board's Decision dated 04/30/2024 and numbered 25-17/407-188

⁷ Decision of the Competition Board dated 13.04.2023, numbered 23-18/325-110

During the investigation, it was determined that an employee had left a WhatsApp group—where messages had been deleted—using the “former participants” tab after the on-site inspection had started. It was also confirmed that the employee’s departure from the group happened after the inspection began, leading to the conclusion that the on-site review was obstructed. As seen in this decision, the main act that led to hindering the inspection was not just “leaving the group,” but rather that this action, combined with deleting messages, resulted in the destruction of evidence. In the Board’s *Vatan Decision*⁸ it was examined whether the deletion was performed manually by the user or automatically through WhatsApp’s 24-hour message feature. The review found that automatically deleted messages do not appear in WhatsApp.log records. Additionally, tests within the Authority revealed that the deletions were carried out manually by the employee, confirming these were not automatic deletions tied to the timed message feature. As a result, the content of the deleted data was not assessed, and it was decided that the on-site inspection had been obstructed.

In the dissenting opinion to the Samsung decision, some Board members stated that, following established precedents, any deletion or action causing automatic deletion after the start of an on-site inspection should be considered, by itself, as an act of obstructing or complicating the inspection. They emphasized that accessing the relevant data later through other devices does not negate the obstructive or complicating nature of the action. Furthermore, it was noted that in previous Board decisions of a similar nature, administrative fines had been imposed, and that due to Samsung’s deletion activities, on-site inspection was hindered or made more difficult.

Therefore, it was expressed that an administrative fine should be imposed for obstructing and complicating the on-site inspection.

Another point to consider in the decision is whether deleted content can be restored and, if restored, whether it holds any significance for the investigation.- In the Board’s *Unmaş Decision*,⁹ it was noted that being able to access deleted data with forensic IT tools does not affect whether an act hinders or obstructs an on-site inspection.-Accepting otherwise could mean rewarding undertakings that delete data, but whose deletion cannot be detected by forensic IT tools.-This observation is included in the decision. Similarly, in the *Tekyol Beton Decision*,¹⁰ it is stated that for documents deleted and restored during an inspection, “there is no requirement to determine whether the restored data shows a violation, whether the data was restored, or other related points.” These remarks are included in the decision.

As reflected in the *Unmaş Decision* above, many other Board decisions and court precedents have reached similar conclusions. For example, the *Çimsa Decision* noted that although deleted chats were restored and did not contain any messages relevant to the investigation, even if such messages had existed, the act of deleting data itself is sufficient to be considered an obstruction. Similarly, in the *Teknosa Decision*,¹² it was argued that restoring deleted data, reviewing it, or claiming that the deleted data was unrelated to the case were points raised by the undertaking, but the Board did not accept these arguments.

In the decision of Ankara 18th Administrative Court, numbered 2022/1621 E., 2022/3150 K., it was stated that the content of deleted emails—whether private or work-related—or whether they could later be restored has no bearing on the imposition of a penalty; **email correspondence**

⁸ Decision of the Competition Board dated 04/28/2023 and numbered 23-19/363-125

⁹ Decision of the Competition Board dated 05/20/2021 and numbered 21-26/327-152

¹⁰ Decision of the Competition Board dated 08/28/2025 and numbered 25-32/756-448

¹¹ Decision of the Competition Board dated 01/26/2023 and numbered 23-06/74-23

¹² Decision of the Competition Board dated 04/28/2023 and numbered 23-19/364-126

Even if the experts conducting the on-site inspection managed to recover the data, it was clearly stated that delayed access to the information made the inspection more difficult. As a result, the Board's decision to impose an administrative fine on the relevant entity was deemed lawful. However, unlike the previous decisions, the Samsung Decision considered the recovered data, and since no correspondence related to the investigation was found within, the deletion that occurred after leaving the group was not penalized.

Although the Board tended to maintain its established jurisprudence in decisions before and after the Samsung Decision, the Board's approach in this particular case sparked some debates. Nevertheless, there have been previous cases where the Board departed from its established practices, which also led to similar discussions.

Another decision that, like the Samsung Decision, generated considerable discussion was the Hepsiburada Decision dated 07.10.2021¹³. In this case, despite the deletion action taken after the start of the on-site inspection, it was decided not to impose an administrative fine, without providing any justification. The dissenting opinion referenced the "Required Elements in the Decision" section of Law No. 4054, criticizing the ruling for lacking these grounds and arguing that the decision was made unlawfully. It was further noted that whether the deleted data was later recovered or not was irrelevant, whether employees were sufficiently warned during the inspection was not important, whether the deleted data was related to the subject of the inspection or whether good faith was shown should not be considered, and that only the date and time of the deletion should matter. Additionally, the dissenting opinion stated that if subjective reasons are evaluated and accepted based on the specific circumstances in cases of obstructing on-site inspections, this would make the decisions debatable and render the most crucial evidence-gathering method, which should be carried out "without notice, suddenly, quickly and uninterrupted," ineffective.

¹³ Decision of the Competition Board dated 07.10.2021 and numbered 21-48/678-338

¹⁴ Decision of the Competition Board dated 17.08.2023 and numbered 23-39/727-250

¹⁵ Decision of the Competition Board dated 28.08.2025 and numbered 25-32/755-447

a crucial tool frequently emphasized in decisions; on-site inspections, which must be conducted "without prior notice, unexpectedly, rapidly, and without interruption," would be rendered ineffective.

A decision similar to the Samsung Decision was made in the *Balsu Decision*¹⁴, where deleted content was restored and reviewed. Since none of the restored data was found to constitute a violation, it was determined that an administrative fine was not warranted. The Balsu Decision also sparked debate among Board members. One member, while agreeing with the outcome, did not concur with the reasoning behind it. In this particular case—which ran counter to the Board's established strict approach and became a point of discussion—a large number of emails were deleted during the on-site inspection but were subsequently recovered by experts using Microsoft's "Recover Deleted Items" function, and no documents were taken from the recovered emails. Similarly, in the Samsung Decision, although it was recorded that the act of leaving the group occurred after the inspection began at 10:11, a review of the other employees' mobile devices provided access to the relevant group chats, and no findings or evidence related to the investigation were discovered. As such, it was concluded that these actions could not be regarded as obstructing or hindering the on-site inspection.

However, it is evident that the Board has continued to follow its established precedent in recent decisions following the Samsung Decision. For instance, in the *Maruf Oysal Decision*¹⁵, dated 28.08.2025 and the *Tekyol Decision*, actions such as leaving a group and deleting messages were treated as obstruction of the on-site inspection. In the *Maruf Oysal Decision*, it was found that employees, after leaving their work groups, deleted messages using the "Clear Chat" function, and this conduct was deemed to be tampering with evidence.

has described it as an act of obstruction. Additionally, in these decisions, the Board stated *that in cases where on-site inspections are hindered or made difficult, simply proving that data on the devices under review were deleted after the inspection began is considered sufficient; there is no requirement to determine the content of the data or whether it was recovered, or to make additional findings on such matters.* With this assessment, the Board imposed an administrative fine on the undertaking.

In the Tahsildaroğlu Decision dated 08/28/2025¹⁶ and the IWALLET Decision dated 08/14/2025¹⁷, actions such as deleting chats and activating timed messages were evaluated similarly. In the Tahsildaroğlu Decision, the Board maintained the same stance as in the UNMAŞ Decision and concluded that the on-site inspection had been obstructed. Similarly, in the IWALLET Decision, it was found that, after the inspection began, employees deleted messages and activated 24-hour timed messages. The Board also stated that, in this case, showing that data on the relevant devices were deleted after the inspection started was sufficient to conclude that the inspection had been hindered.

In light of these assessments, it can be concluded that, despite the Samsung decision, the Board has continued to apply its established approach in its recent rulings.

CONCLUSION

Based on the decisions cited above, it can generally be said that the act of deletion is considered an action that hinders or complicates on-site inspections, regardless of the nature of the deleted data or whether it can be recovered. Additionally, the Board evaluates deletions made by employees and those done automatically from different perspectives, and may deviate from its established practice in cases where deletion occurs automatically.-

This is observed in practice. Moreover, in the Samsung Decision and other cases where despite the presence of deletion, it was not concluded that on-site inspection was obstructed, it was found that deleted data could be restored and confirmed that none of this data could cause a violation, in other words, the integrity of the data was presumed to be maintained. While these assessments may be said to undermine the principle of legal certainty, it can also be argued that they are internally consistent. For instance, in the Samsung Decision, deleting group messages following a departure from a group was considered a system-driven deletion, rather than a deletion performed by the employee, which influenced the outcome. On the other hand, employees are expected to anticipate that leaving a frequently used communication group within the company would result in automatic deletion of messages. However, this aspect was overlooked in the cited decision.

In conclusion, it should be acknowledged that the Samsung Decision stands out as an exception among the Board's rulings regarding the obstruction of on-site inspections, and this exception should not be considered applicable in every case.

¹⁶ Competition Board's decision dated 28.08.2025 and numbered 25-32/756-448

¹⁷ Decision of the Competition Board dated 14.08.2025 and numbered 25-31/726-431