

Combating Counterfeit and Smuggled Drugs

Foreign pharmaceutical trademarks, in principle, are registered in the name of the companies in the countries where they are established, and trademark protection procedures are managed by those companies. Although affiliates in Türkiye are not a party to trademark protection proceedings, since they become the marketing authorization holders of the drug, they are considered the relevant addressee of the Ministry of Health ("MoH") in all transactions related to the product.

The Turkish Medicines and Medical Devices Agency ("Agency") is responsible for regulating and supervising drugs and other healthcare products. The Drug Tracking System ("DTS") has been developed to combat drug smuggling and counterfeiting; all drugs are registered with a unit based QR code and every transaction is tracked from the moment it enters the market until it reaches the patient. Marketing authorization holders in Türkiye must notify the Agency of any counterfeiting and smuggling activities of which they become aware and are also obliged to notify under Article 278, "Crime of Failure to Report a Crime", of the Turkish Penal Code ("TPC").

How to get informed?

Since pharmaceutical companies do not sell medicines directly to patients and drugs are delivered through pharmaceutical warehouses and pharmacies, there are many actors in the supply of drugs. Therefore, information on counterfeit drugs can be obtained through reports made to the company by physicians, warehouses, or pharmacists other than the patient. Upon such reports, it is possible to act based on the individuals identified and the detailed information, evidence and samples obtained through general field and/or address-based investigations conducted by lawyers or investigation companies.

What are the legal remedies?

Depending on the evidence obtained, complaints can be filed under Articles 186 and 187 of TPC, under "Manufacturing Counterfeit Drugs" and "Infringement of Trademark Rights and Unfair Competition". In the case that counterfeit or original drugs enter the country without being subjected to the required customs regime (in other words, if they are smuggled), legal action pursuant to the Anti-Smuggling Law can also be taken separately or alongside the complaints mentioned above.

Since the crimes of Trademark Infringement and Unfair Competition are crimes prosecuted upon complaints, the trademark or marketing authorization holders must

