



New Regulations on Product Safety: Law No. 7223 on Product Safety and Technical Regulations

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Turkey recently introduced new regulations on product safety. The Law No. 7223 on Product Safety and Technical Regulations (“Product Safety Law”) was published in the Official Gazette of March 12, 2020. The Product Safety Law will become effective after one year as of its publication (March 12, 2021).

Once the Product Safety Law becomes effective, it will abrogate the Law No. 4703 on Preparation and Application of Technical Legislation on Products, which is currently regulating the product safety and technical requirements.

The law introduces obligations on “intermediary service providers” and provides notice and take-down/access ban procedure regarding sales and promotion of products, which do not comply with product safety requirements.

The obligations of certain actors as per the Product Safety Law are designated as follows:

I. Commercial Operators

Commercial operator is defined as “manufacturers, authorized representatives, importers, distributors and other real persons or legal entities who have responsibilities in import of products, keeping the products in market or presenting products to service within the scope of technical regulations.”

Commercial operators must keep the records of the trade name, trademark and contact information of commercial operator of a product, which comes before or after the relevant commercial operator in the supply chain, at least for ten (10) years following the presentation of the product.

This obligation is also applicable for “intermediary service providers” and “media service providers” which provide media for third parties’ commercial operations.

(i) Manufacturers

The significant obligations regulated under the Product Safety Law for manufacturers are as follows:

- Present products which are in compliance with technical regulations or general product security legislation indicated under the Product Safety Law
- Provide technical file, conduct compliance examination, if required, and compliance symbols, statements and documents



- Keep the copies of the documents which are showing the compliance of the products at least for ten (10) years
- Test and examine the product risks with samples
- Provide information on model, party, serial number of the product and information on its trade name, trademark, address in the documents presented with the product
- Take required measures for potential risks and inform end users to prevent the risks
- Ensure that the information provided with the products is in Turkish language
- Cease the presentation of the products from market or recall if the products are not compliant
- Enforce the instructions of the authorities for product safety, and conduct official registrations, if required

(ii) Importers

The significant obligations regulated under the Product Safety Law for importers are as follows:

- Present products which are in compliance with technical regulations or general product security legislation indicated under the Product Safety Law
- Ensure that the product is presented with the required compliance symbols and documents, and the manufacturer fulfilled its obligations regarding the information to be provided with the product
- Refrain from presenting the product if importer is aware or should aware that the product is not compliant, and inform the manufacturer and authorized institution if the product is risky
- Provide its information including trade name, trademark, address in the documents presented with the product
- Take required measures for potential risks and inform end users to prevent the risks
- Ensure that the information provided with the products is in Turkish language
- Test and examine the product risks with samples
- Cease the presentation of the products from market or recall if the products are not compliant



- Keep the copies of the documents which are showing the compliance of the products at least for ten (10) years
- Enforce the instructions of the authorities for product safety, and conduct official registrations, if required

(iii) Authorized Representatives

Authorized representative is real person or legal entity which is authorized by the manufacturer in writing for performing some of its obligations under the legislation on behalf of the manufacturer.

The minimum obligations of the authorized representatives are as follows:

- Keep the copies of the documents which show the compliance of the products at least for ten (10) years
- Enforce the instructions of the authorities for product safety, and conduct official registrations, if required

(iv) Distributors

The significant obligations regulated under the Product Safety Law for distributors are as follows:

- Ensure that the product carries the compliance symbol(s), has the documents indicating its compliance, instructions and safety rules are added to the product in Turkish; ensure that the manufacturers and importers comply with their obligations regarding providing necessary information on products, prevent lack of visibility of mandatory information regarding product safety on the products,
- Refrain from keeping products in market, where it knows or should now that the product is not compliant and immediately inform the importer or manufacturer and authorized institution in all incidents where the product incurs a risk,
- Ensure that the storage and transportation of the product is compliant with general product safety legislation and technical regulations when the product is on its responsibility,
- Confirm that the manufacturer or importer takes necessary measures to render the product compliant, cease the presentation of the product from market or recall the product when it learns or should know that the product it keeps in the market is not compliant, and immediately inform the manufacturer or importer and the authorized institution regarding risks on especially health and security, as well as necessary precautions their consequences,
- Cooperate with the commercial operator in actions taken in order to cease the risks on the products it keeps on the market, provides all necessary information and documents showing



the compliance of products to the authorized institution, and immediately comply with the authorized institution's instructions.

In cases where the manufacturer, authorized representative or importer of a product cannot be identified, the distributor (i) which is notified by authorities and/or aggrieved party and (ii) does not provide information of the manufacturer, authorized institution, importer or previous commercial operator of a product within ten (10) business days, will be deemed a manufacturer under the Product Safety Law, and be liable as a manufacturer from compensation due to any possible damages.

II. Sanctions:

(i) Access Ban and Supervision of Samples

The authorized institution (to be determined by the Presidency), established to regulate technical regulations, may notify the intermediary service provider for removal of content through e-mail or other communication methods as obtained from its websites, domain name, IP address, etc., if a non-compliant product that is released to the market or available in the market sold or promoted on the internet.

If the content is not removed by the intermediary service provider within twenty four (24) hours, the authorized institution decides upon access ban on the content regarding the non-compliant product and notifies this decision to the Information and Communication Technologies Authority (ICTA) for execution. If the website is directly owned by the commercial operator, the same applies. The access ban decision is granted by way of indicating the URLs of the contents.

Real persons and legal entities appointed by the authorized institution could buy samples of the products sold over the internet, radio, television, etc. for the purposes of market supervision and audit, without providing their identities.

Accordingly, the Product Safety Law allows access ban measure implemented by the authorized institution without requiring a court order, as well as providing samples to the anonymous supervisors of non-compliant products.

(ii) Fines

Article 20 of the Product Safety Law provides administrative fines (i) from 7,000 Turkish Liras up to 500,000 Turkish Liras for failure to comply with the Product Safety Law. Product Safety Law also provides other administrative fines which will be calculated based on sample prices and FOB (Incoterms Free on Board) prices of the relevant products.

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