

Turkey Announces the Framework Regulation on Market Surveillance and Inspection of Products

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Framework Regulation on Market Surveillance and Inspection of Products ("**Regulation**") is introduced in Official Gazette dated 10 July 2021 and numbered 31537.

The Regulation aims to regulate the procedures and principles pertaining surveillance and inspection of the market for placing into and maintaining in the market and putting into service the products that fulfill the requirements regarding human health and safety, health and safety in the workplace, protection of consumers, protection of the environment, ensuring public safety, and other protection of the public interests. The Regulation has been prepared within the framework of harmonization with the European Union legislation, taking into account the Regulation (EU) No 2019/1020 on the Compliance of Products and Market Surveillance of the European Parliament and the Council.

According to the Regulation:

- To ensure the traceability of the products, the manufacturer or importer places information on the products, or in cases where the size and nature of the product are not suitable for this, on the product's packaging, parcel/box, or in a document accompanying the product, that distinguishes the serial, model, batch number, lot, or the product.
- The business operators whose responsibilities are specified in the second part of the Regulation are under the obligation to cooperate with the public institution that prepares, executes, or inspects the technical regulations regarding the products in their activities carried out in order to reduce or eliminate the risks of the products they put on the market or keep on the market ("**Authorized Institution**") and the Ministry of Trade ("**Ministry**").
- The Authorized Institution is tasked with:
 - Requesting data or information from business operators about the suitability and technical aspects of the product, including access to embedded software, related documents, and specifications in any form and regardless of the storage medium or the location of such documents, specifications, data or information and making copies of them,
 - Requesting business operators to provide information on supply chain, distribution network details, product quantities in the market and, where relevant, other product models with the same technical characteristics as a product in terms of compliance with the requirements specified in the technical regulations,
 - Requesting business operators to provide necessary and relevant information about the investigation to identify the owners of websites,
 - Making on-site inspections and sensory inspections of products **unannounced**,
 - Inspecting the products in the warehouse, in the transport vehicle, in the places deemed necessary, including the workplace and production facility, of the economic enterprise to detect non-compliance,
 - Initiating an investigation **ex officio** to detect and eliminate non-compliance,
 - Requesting economic operators to take appropriate measures to eliminate non-compliance or risk,
 - Taking appropriate measures, such as prohibiting or restricting the availability of the product on the market, or requesting the economic operator to withdraw or recall the product from the market in case the business operator does not take appropriate corrective measures, does not take them in a timely manner, or if the authorized body finds the measures incomplete or insufficient, or in cases

- where non-compliance or risk persists,
 - Imposing administrative sanctions,
 - Taking product samples, including anonymously, inspecting these samples and reverse engineering these samples to detect nonconformity and to obtain evidence,
 - Requesting removal of the content of the relevant products from the online interface or a warning to end-users that will not allow the purchase of the product when accessed online, in the absence of other effective means to eliminate the serious risk, to be clearly displayed until the risk disappears.
- Authorized Institutions may use any information, document, finding, statement, or intelligence as evidence in their investigations, regardless of the format and environment in which they are stored.
- In case a delegation of authority decision given by the authorized institutions within the scope of the third paragraph of article 15 of the Law on Product Safety and Technical Regulations numbered 7223 dated 5 March 2020 ("**Law**"), this decision is drawn up through a protocol by taking into consideration the opinions of the Ministry.
- Authorized Institutions, if they deem it necessary, can take a sufficient number of product samples from the market, physically or via remote communication tools, according to the structure and characteristics of the product, within the scope of their authorization and activities determined in the Law and Regulation.
- If the sample violates the requirements or carries a risk as a result of the tests, no payment will be made to the manufacturer or the importer for the sample. The sample will be stored in the test institution in suitable conditions and for a suitable time according to the characteristics of the product. At the end of this period, a "sample disposal report" will be drawn up and the sample disposed of by the Authorized Institution.
- If the sample is found to be in conformity or safe as a result of the tests:
 - If the sample did not lose its viability, the manufacturer or importer will be informed of the test result. The economic operator concerned may take the samples back or have them taken within one month from the date of notification of this notification.
 - In cases where the sample has lost its viability, the sample will be disposed of and a "sample disposal report" will be prepared in accordance with the provisions of relevant legislation, and the sample fee paid to the manufacturer or importer by the Authorized Institutions.
- If the sample is found to violate the requirements or carries a risk, no payment will be made to the manufacturer or the importer for the sample. The sample will be stored in the test institution in suitable conditions and for a suitable time according to the characteristics of the product. At the end of this period, a "sample disposal report" will be drawn up and the sample disposed of by the Authorized Institution.
- If there are strong indications that a product carries a serious risk, Authorized Institutions may temporarily suspend the product's placement in the market until the test is completed, and immediately notify the economic operator of this decision. To prevent possible risks that may arise from the product, the economic operator will inform the distributors of the situation and ensure that the groups at risk are informed.

Please see this [link](#) for the full text of the Regulation published in the Official Gazette dated 10 July 2021 and numbered 31537 (only available in Turkish.)

Related Practices

- [Product Liability and Consumer Protection](#)

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