

Food Safety and Law Enforcement in Türkiye

Enver Kaşlı¹  

Ankara Police Department, 06560 Yenimahalle, Ankara

Received (Geliş Tarihi): 17.01.2023, Accepted (Kabul Tarihi): 07.06.2023✉ *Corresponding author (Yazışmalardan Sorumlu Yazar): kaslienver@gmail.com (E. Kaşlı)*

☎ +90 312 303 6524 📠 +90 312 384 0772

ABSTRACT

Food is an indispensable basic need for human beings. Food safety has become one of the elements of public order, as technological developments bring many new threats to food safety in contrast to the advantages it provides. Safe food does not pose a danger to human health, is ready for consumption, and complies with the legislation. Food law enforcement is an activity that requires technical knowledge and expertise and is among the private law enforcement agencies. To ensure food safety in Türkiye, the Ministry of Agriculture and Forestry carries out food law enforcement activities. In this study, food safety and food law enforcement organization, powers, and sanctions of food law enforcement are examined by Turkish legislation.

Keywords: Food safety, Food law enforcement, Hygiene, Food legislation

Türkiye’de Gıda Güvenliği ve Gıda Kolluğu

Öz

Gıda, insan için vazgeçilmez temel bir ihtiyaçtır. Teknolojideki gelişmeler sağladığı avantajların yanı sıra gıda güvenliği açısından da birçok yeni tehdidi ortaya çıkardığından dolayı gıdanın güvenliği, kamu düzeninin unsurları arasına girmiştir. Güvenli gıda; insan sağlığına tehlike oluşturmayan, tüketime hazır ve mevzuata uygun gıdadır. Gıda kolluğu, teknik bilgi ve uzmanlık isteyen bir faaliyet olup özel kolluk teşkilatları arasında yer almaktadır. Türkiye’de gıda güvenliğini sağlamak amacıyla Tarım ve Orman Bakanlığı, gıda kolluğu faaliyetlerini yürütmektedir. Bu çalışmada Türk mevzuatına uygun olarak gıda güvenliği ve gıda kolluğu teşkilatı, gıda kolluğunun yetkileri ve yaptırımlar incelenmektedir.

Anahtar Kelimeler: Gıda güvenliği, Gıda kolluğu, Hijyen, Gıda mevzuatı

INTRODUCTION

Today, law enforcement activities are not limited to just policing. To protect public order, there are many law enforcement agencies besides the police. Food law enforcement is a private law enforcement activity. The purpose of food law enforcement is to ensure the safety of food that people need to feed. Food is an indispensable basic need for human beings. Technological advancements have also deeply affected the food industry and created new food-related safety concerns. Since public order means people live in safety

and peace, ensuring food safety has become an element of public order.

To ensure food safety in Türkiye, the Ministry of Agriculture and Forestry carries out food law enforcement activities. These law enforcement activities are regulated in the Veterinary Services, Phytosanitary, Food and Feed Law No. 5996 (shortly Food Law), which came into force in 2010. The Food Law was enacted to harmonize with the European Union legislation [1, 2]. In this study, firstly, food safety will be examined according to Turkish legislation, then the food law enforcement

organization will be explained, then the powers and sanctions of the food law enforcement will be analyzed.

DETERMINATION of FOOD as SAFE

Food law enforcement is an activity that requires technical knowledge and expertise. Food law enforcement needs technical and special knowledge, mainly food engineering science. Therefore, the basic concepts of food law enforcement are specific to its field of activity. The most basic concept of food law enforcement is food. People have to feed to live, food is used to feed. Food is used to express processed, partially processed, or unprocessed product that is eaten, drunk or expected to be eaten or drunk by humans [3] (article 3). The basis of food safety is the risk of food harming human health. Concerns about food safety are not a new phenomenon. It is claimed that 1.8 million people die each year because of diarrheal diseases caused by unsafe food and water [4]. Safe food does not pose a physical, chemical, or biological hazard to human health is ready for consumption, and complies with the legislation [3] (article 21).

Certain criteria are taken into account to determine safe food. In determining whether the food is safe; production stages, label information and health warning information, and daily normal usage conditions by people are taken into consideration [5]. In determining whether the food is harmful to human health; in addition to the possible immediate, short, or long-term effects on the health of the consumer, the effects on future generations, possible cumulative toxic effects, and the special health sensitivities of certain consumer groups are also taken into consideration [3] (article 21).

Safe food complies with the Turkish food codex [6]. In the food codex, there are regulations regarding minimum technical and hygiene criteria regarding food, additives, sampling, packaging, labeling, transportation, storage principles, and analysis methods. The Ministry's National Food Codex Commission prepares the food codex. The Ministry can cooperate with relevant institutions and organizations while preparing the food codex [3] (article 23). The production and placing on the market of food and food contact materials contrary to the food codex is prohibited [3] (article 21). Safe food must comply with the hygiene conditions in the food codex. Hygiene is any measure required to be taken at all stages of the food chain to ensure that food is suitable for human consumption [3] (article 3).

Adulteration and counterfeiting violate food safety. Acts such as counterfeiting and adulteration are experienced especially during periods of increased demand in the food market [8]. Adulteration is the removal of all or some of the elements and nutritional values that give food its basic feature or the change of its amount in violation of the legislation. Another type of adulteration is the addition of another substance that does not have the same value as if it were the same substance instead of that substance. On the other hand, counterfeit is the presentation of food as having features that are not found in its structure in terms of shape, composition,

and qualities, or as if it is the same as another product [3] (article 3). Counterfeiting and adulteration of food are prohibited. The imitated and adulterated product cannot be processed or placed on the market [3] (article 24). Food law enforcement has a great responsibility to ensure that people are fed with safe food.

ORGANIZATION of FOOD LAW ENFORCEMENT

Law enforcement protects public order and intervenes in events disrupting public order. Peace and order in social life is public order. The scope of public order is expanding and enriching. While law enforcement generally meant the police in the past, today many activities such as urbanization, protection of the environment, combating climate change, and disaster preparedness are carried out as law enforcement activities. Food must be safe for health to maintain public order. Throughout history, states have taken measures to ensure that people are fed from safe sources [2]. Food law enforcement is the whole of inspection, investigation, control, monitoring, and enforcement activities to ensure food safety to protect human health [11].

Private law enforcement is only authorized and in charge of a certain type of activity. Since food safety requires technical knowledge and expertise, food law enforcement is a special law enforcement activity. The Ministry of Agriculture and Forestry is responsible for ensuring food safety in Türkiye. Since the food production stages are interconnected, the authorities related to food safety are gathered in a single institution. The Ministry consists of central and provincial units. Its central organization is in Ankara, the capital of Türkiye. The provincial organization is located in 81 provinces of the country. The ministry is the contact point of the international Codex Alimentarius Commission [3] (article 23). Ministry as food law enforcement is responsible for preparing the food codex [3] (article 23), determining the hygiene conditions [3] (article 29), making the regulations regarding new foods [3] (article 21), taking the necessary measures in case of risk [3] (article 25), and carrying out official control activities [3] (article 31). Consumers can assist food law enforcement by calling. Consumers have been able to make their food safety-related notices and complaints to the Call Center 174 Food Line since 2009.

Businesses engaged in food-related activities must obtain permission from the Ministry [3] (article 30). Food businesses are also responsible for ensuring food safety. Food businesses must comply with the food law. Food businesses are obliged to collect their products and inform the Ministry of the situation if they consider that their products are not reliable or safe. The food business operator must also inform the consumer about the reason for the collection. Food businesses; keep the records related to food activities up to date and submit them to the Ministry during official controls. Depending on the type of business, food businesses must employ at least one staff member who has received a bachelor's degree in the subject [3] (article 22). In the event of a serious risk to human health, food businesses and other

interested parties must comply with the Ministry's measures [3] (article 25).

WARRANTS of FOOD LAW ENFORCEMENT

Ensuring food safety is a long and complex process. Food safety is the observance and control of the rules at every stage of production to ensure the production of foods that are harmless to human health from the first producer to the last seller.

Inspections made to ensure food safety is called official controls. The control officer carries out official controls. The control officer may be Ministry personnel or authorized persons. The control officer has the authority to enter any place at any time for control and to request samples from the food business operators during the control without paying any price. Control officer has to take decisions impartially, objectively, and independently, away from any kind of influence and conflict of interest [3](article 31). Analyzes of the samples related to the official controls are carried out in the laboratories of the Ministry or other laboratories approved by the Ministry [3] (article 33). Those concerned have the right to object to the Ministry about the results of official control and inspection within seven days from the date of notification [3] (article 31).

Food law enforcement has to intervene when it detects an incident that endangers or violates food safety. Food law enforcement's interventions are based on the powers granted by the Food Law. Food law enforcement has the discretion to decide which powers to apply according to the circumstances of the case. In food law enforcement, intervening in an event that endangers food safety is preventive power, and intervening in an event that violates food safety is judicial power.

- **Restriction and Prohibition of Foodstuff:** The Ministry may restrict or prohibit the use of certain substances and products as food or in food production, or may bind their use to certain principles, taking into account human health [3](article 21).
- **Determination of Import and Export Conditions:** The Ministry is authorized to determine the import and export conditions related to food [3](article 34). However, in the presence of bilateral or multilateral international agreements, the provisions of the agreements shall apply to imports and exports.
- **Granting Approval:** The Ministry is authorized to approve before being placed on the market. The product owner has to submit the information and documents requested by the Ministry for approval. The production, importation, and placing of these products on the market without approval are prohibited [3](article 22).
- **Restriction and Prohibition of Import, Export, and Supply to the Market:** The Ministry may restrict or prohibit the placing on the market, transportation, entry, and exit of the food, which, as a result of official control, is determined not to meet the

requirements of the legislation and to pose a danger to human health [3] (article 32). Even if the food complies with the conditions determined by the Ministry, if there is sufficient doubt that the food is unsafe, the Ministry may restrict the supply of the food to the market or have the food brought to the market recalled [8] (article 21).

- **Suspension of Sale and Withdrawal from the Market:** The Ministry may suspend the sale of food, which, as a result of official control, is determined not to meet the requirements of the legislation and to pose a danger to human health, and may request that they be collected from the market by the owner or operator [3] (article 32).
- **Making up for the Deficiency:** when a deficiency that can be corrected in terms of legislation is detected, if the food does not pose any danger to human health, the products may be allowed to be placed on the market, provided that they are brought into compliance with the legislation [3] (article 32).
- **Evaluation for Other Purposes:** The Ministry may permit the evaluation of the food, which, as a result of official control, does not meet the requirements of the legislation and poses a danger to human health, under the control of the Ministry and other relevant institutions [3] (article 32).
- **Disposal:** The Ministry may destroy the food that is determined as a result of official control that does not meet the requirements of the legislation and poses a danger to human health [3] (article 32).
- **Reporting a crime:** When the Ministry detects a crime related to food safety, it is obliged to report the situation to the prosecutor's office.

SANCTIONS and JUDICIAL REMEDY

Sanction is the legal reaction against the violation of the rule of law. To ensure food safety, judicial and administrative sanctions are regulated for those who violate the legislative rules. Judicial sanctions are decided by the criminal courts as a result of the criminal investigation. The most important responsibility of food law enforcement for requiring criminal sanctions is to report a crime and submit the evidence to the prosecutor's office. Provincial directors and control officers serving as food law enforcement have the authority to impose administrative sanctions on incidents they encounter during inspections [3] (article 42).

The acts that require judicial sanctions are as follows:

- Acts of producing, importing, and placing on the market food that will endanger people's life and health are punished with imprisonment from one year to five years and a judicial fine. These foods are collected from the market at the expense of the responsible person, and their property is transferred to the public and destroyed [3] (article 40).

The acts that require administrative sanctions are as follows:

- Administrative fines are imposed on those who violate the regulations set by the Ministry regarding new foods [3] (article 40).
- Administrative fines shall be imposed on those who produce food and substances and materials that come into contact with food, and those who place them on the market, in violation of the food codex [3] (article 40).
- Administrative fines are imposed on those who violate the restrictions or prohibitions determined by the Ministry [3] (article 40).
- Administrative fines are imposed on those who place food on the market without approval [3] (article 40).
- Administrative fines are imposed on those who do not comply with the measures taken by the Ministry in case of risk [3] (article 40).
- An administrative fine is imposed on those who do not employ trained personnel [3] (article 40).
- Administrative fines are imposed on those who imitate and adulterate. The ownership of food is passed to the public [3] (article 40).
- An administrative fine is imposed on those who do not comply with the hygiene rules [3] (article 41).

Disposal procedures are carried out under the supervision of the Ministry, with all costs borne by the owner. Administrative fines are paid within thirty days [3] (article 40). Related persons may seek rights under criminal procedure law against acts that require judicial sanction. Those concerned have the right to file a lawsuit against the acts requiring administrative sanction before the administrative courts.

CONCLUSION

For the health of society, people must be fed with adequate and safe food. The measures to be taken by food law enforcement have an important place to prevent the threats to food safety from turning into harm. The law regulating the duties and powers of food law

enforcement in Türkiye entered into force in 2010. The Ministry of Agriculture and Forestry, which carries out food law enforcement activities, has been given many important tasks such as preparing the food codex, determining the hygiene conditions, making the regulations regarding new foods, taking the necessary measures in case of risk, and carrying out official control activities. To fulfill this duty, food law enforcement has been given the authority to make regulations for foodstuffs, to allow food businesses, and to take measures for market activities. Food law enforcement can apply administrative sanctions to ensure food safety and to apply to the courts. As a result, food law enforcement has the necessary preventive and judicial powers at the level of law to ensure food safety.

DISCLAIMER

Opinions expressed within the content reflect only the author's views. The contents of the published opinion do not necessarily represent the views of the government agency of Police Department in Türkiye.

REFERENCES

- [1] Koç, G., Uzman, A. (2015). Gıda güvencesi ve gıda güvenliği: Kavramsal çerçeve, gelişmeler ve Türkiye. *Tarım Ekonomisi Dergisi*, 21(1), 39-48.
- [2] Gökçe, R., Ergezer, H. (2016). Gıda mevzuatımız; nereden, nereye?. *Akademik Gıda*, 14(2), 225-229.
- [3] Veterinary Services, Phytosanitary, Food and Feed Law No. 5996. Republic of Türkiye Official Gazette, 13/06/2010, 27610.
- [4] World Health Organization. (2006). Five Keys to Safer Food Manual. France.
- [5] Erkmen, O. (2010). Gıda kaynaklı tehlikeler ve güvenli gıda üretimi. *Çocuk Sağlığı ve Hastalıkları Dergisi*, 53(3), 220-235.
- [6] Putri, S. (2018). Challenge to enforce food safety law and regulation in Indonesia. *IOP Conference Series: Earth and Environmental Science*, 175, 1-6.
- [7] Assan, N. (2019). The Challenges of Food Law Enforcement: Perceptions of Environmental Health Practitioners in the Northwest of England. Unpublished Doctorate Thesis, Salford University.