

# Legal Issues to Consider under COVID-19



*March, 2020*

A threat to the global economy, the novel coronavirus (“COVID-19”) outbreak has recently been classed as a pandemic by the WHO and its rapid spread has interrupted supply chains and caused disruption in the markets.

Outlined below are the questions companies and their management bodies should consider as they evaluate the new circumstances. We are experienced in these areas of law and business practice and has the capability to address the wide range of commercial and transactional questions clients will have concerning the COVID-19 and its impact of business activities.

To discuss the legal and business implications for your company, please contact us at [hulya.posaci@posaci.av.tr](mailto:hulya.posaci@posaci.av.tr).

## Contractual Breach – Force Majeure

- Does the COVID-19 pandemic constitute force majeure and excuse non-performance of commercial contracts? What does Turkish laws & case law provide and what does ICC suggest?
- Have you checked your agreements in relation to force majeure and is disease outbreak included?
- Does the pandemic trigger a material adverse effect (MAE) under your SPA?
- What measures should a company take if it cannot supply its customers, or is not supplied by its providers?

## International Trade Issues

- What steps should a company take to prepare for import/export clearance delays caused by regulatory actions taken by governments?
- Has the state put trade barriers in place as a measure against COVID-19 that impacts your trading?

## Competition / Antitrust Perspective

- Can competitors share knowledge of their production and inventory to support the response to COVID-19 without being in breach of antitrust laws? Would the normal-day-limitations be applicable during such alarming times for public health?
- How can companies adjust their pricing without being accused of price gouging or causing shortage of items under the Turkish Criminal Code articles 237 and 238, respectively?

## Healthcare, Pharma, Medical Device and Technologies Sectors

- How should healthcare, pharmaceutical, medical device and technology and PPE companies respond to product shortage issues, such as face masks?
- How should fraudulent claims that a product prevents, treats or cures COVID-19 be reported?

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