Life sciences: product regulation and liability in Romania

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Trends and developments

Legal developments

Are there any notable trends or recent legal developments in your jurisdiction's pharmaceutical industry?

One recent legal development in the pharmaceutical field is the change of methodology for establishing prices for medicinal products which are totally or partially paid for by the social security system. However, already representatives from associations of medicine producers are pushing for this methodology to be revised, claiming that its overall impact on the market is negative and that lowering the prices of medicines to unsustainable levels will end up reducing the variety of medicines available.

Another foreseeable development is the adoption of a bill amending the Pharmacy Law (266/2008), introducing regulations on the online sales of medicinal products (266/2008). This bill would make possible the online sale of medicinal products in Romania, while also aligning the Romanian legislative framework with European regulations in this area.

Legal framework

Legislation

What is the primary legislation governing medicinal products in your jurisdiction?

The primary legislation governing medicinal products in Romania consists of the Healthcare Reform Law (95/2006), the Pharmacy Law (266/2008), the Illicit Drug Trafficking Law (143/2000), the Dangerous Chemical Substances Law (360/2003) and the Medicinal and Aromatic Plants Law (491/2003).

Additionally, numerous regulations set out rules for specific areas, including:

- Ministry of Health Order 1295/2015 on authorisation to manufacture medicines;
- Ministry of Health Order 131/2016 on authorisation to distribute human-use medicines;
- Ministry of Health Order 1962/2008 on parallel imports;

- Government Decision 800/2016 on the methodology for calculating and approving maximum prices for human-use medicines (except for over-the-counter medicines) authorised for sale in Romania;
- Emergency Ordinance 121/2006 on drug precursors;
- Government Decision 734/2010 on the organisation and functioning of the National Agency for Medicines and Medical Devices; and
- Ministry of Health Order 194/2015 on advertising medicinal products.

In addition, since Romania is part of the European Union, the Regulation on the Authorisation and Supervision of Human-use and Veterinary Medicines (726/2004/EC), the Regulation for the Amendment of Directive 2001/83/EC on Good Manufacturing Practices (1252/2014) and the Regulation on Clinical Studies (536/2014/EC) all apply directly.

Are any legislative changes proposed or expected in the near future?

A draft bill on the amendment of the Pharmacy Law was adopted by the first chamber of Parliament in September 2016, introducing regulations for the online sale of medicinal products. However, the regulation will not come into force until it has been ratified by the second chamber.

Regulation

Which bodies regulate medicinal products in your jurisdiction and what is the scope of their powers?

Medicinal products are regulated in Romania by the Ministry of Health, through the National Agency for Medicines and Medical Devices. While the ministry is responsible for setting national priorities in public healthcare and coordinating the allocation of funds, the agency is in charge of regulating medicines and market supervision. Its powers range from the issuance of marketing authorisations, the supervision of clinical studies and the assessment and approval of laboratories to market supervision. However, certain authorisations (eg, for the manufacture of psychoactive substances) also require approval from the ministry.

Are any other legal regimes applicable to the trade of medicinal products (eg, competition, international trade, data protection, consumer protection)?

The trade of medicinal products falls within the scope of laws regulating different fields, such as competition, international trade (including parallel imports), data protection, consumer protection, taxation and intellectual property.

Are any medicinal products exempt from regulation (eg, complementary and alternative medicines)?

No medicinal products are exempt from regulation. Complementary and alternative medicines are regulated by Law 118/2007.

Supply

Manufacture

What is the authorisation procedure for the manufacture of medicinal products in your jurisdiction?

In order to manufacture medicinal products, producers must file a request for manufacturing authorisation with the National Agency for Medicines and Medical Devices. This must be accompanied by a number of documents (eg, the applicant's articles of incorporation and proof of registration with the Trade Registry), as well as by the standard technical file for the medicine, as detailed in Part III of the European Commission's Good Manufacturing Practices Guidelines. On the filing date the applicant must also request that the agency inspect the premises where production will take place. Following this inspection the agency may ask the applicant to submit

additional documents or to take compliance measures. It will then either reject or approve the application. If the latter, the manufacturing permit will be issued within 90 days of the completed application filing date. The agency will issue a good manufacturing practices certificate within 90 days of a satisfactory inspection.

What is the fee for obtaining authorisation?

The inspection necessary for a manufacturing authorisation to be granted is subject to a fee of between €1,561 and €1,742, depending on the type of products to be manufactured (ie, sterile or non-sterile products). Additional fees may be charged according to the number of production streams inspected by the National Agency for Medicines and Medical Devices during the authorisation process or where a second inspection turns out to be necessary. The issuance of the good manufacturing practices certificate is subject to a fee of between €1,753 and €2,035, according to the type of products being manufactured.

What is the validity period for authorisation?

The law does not provide for a validity period for manufacturing authorisations. However, holders must renew or amend the authorisation whenever an element on which it was issued is changed.

How robust are the standard good manufacturing practices followed in your jurisdiction?

The Standard Good Manufacturing Practices Guide followed in Romania is detailed and fit for purpose, being based on and closely following the wording of the European Commission's Good Manufacturing Practices Guidelines and of the EU Directive on Good Manufacturing Practice for Medicinal Products for Human Use (2003/94/EC).

What are the consequences of failure to obtain manufacturing authorisation and/or follow good manufacturing practices?

Manufacturing medicines without an authorisation from the National Agency for Medicines and Medical Devices is a misdemeanor, as established by Article 875(1)a of the Healthcare Reform Law (95/2006), punishable by the closure of the production unit and fines of between €2,200 and €6,600. Article 875(1)d establishes that failing to observe good manufacturing practices is subject to a fine of between €2,200 and €6,600.

Distribution

How are the distribution and storage of medicinal products regulated?

The distribution and storage of medicinal products is governed by the Healthcare Reform Law (95/2006) and by Ministry of Health Order 131/2016 on authorisation for en-gross distribution units for human-use medicines.

According to these, the holder of a manufacturing authorisation is entitled to distribute the authorised medicinal products. Aside from this implicit authorisation, any person applying to obtain a distribution authorisation must be able to prove to the National Agency for Medicines and Medical Devices that it has appropriate storage space, installations and equipment, and that it benefits from the services of qualified personnel. In addition, the applicant must be able to prove that both its suppliers and its clients are authorised to manufacture, distribute or place medicines on the market.

Import and export

How are the import and export of medicinal products regulated?

According to Law 26/2006 the import of medicinal products or active substances depends on first obtaining a manufacturing authorisation. This is also compulsory for medicinal products manufactured exclusively for export.

Are parallel imports permitted in your jurisdiction?

Yes. The procedure for issuing an authorisation for parallel imports is regulated by Ministry of Health Order 1962/2008.

The authorisation is issued by the National Agency for Medicines and Medical Devices, subject to a fee of

approximately €150. It will be issued only if the following conditions are met:

- The marketing authorisation is intended for domestic sales.
- The medicine is imported from a country within the European Union or the European Economic Area.
- The imported medicine is authorised for marketing within the European Union or the European Economic Area.
- The imported medicine is sufficiently similar to prior approved domestic medicines, even if its excipients differ.

Sale and purchase

What rules govern the dispensing, sale and purchase of medicinal products?

The Healthcare Reform Law (95/2006) and the Pharmacy Law (266/2008) cover the dispensation, sale and purchase of medicinal products in Romania.

Such sales are possible only after a marketing authorisation has been obtained from the National Agency for Medicines and Medical Devices. However, medicines, food supplements, homeopathic medicines, traditional plant medicines and medical devices are subject to different authorisation procedures. Marketing authorisations are valid for five years and can be renewed during the final nine months of validity, based on a re-evaluation of the product's risks and benefits by the agency. However, if the authorisation holder fails to place the medicine on the market within three years of the authorisation being issued or if the medicine is not available on the market for three consecutive years, the marketing authorisation loses its validity.

A marketing authoristion request may be refused by the agency if it finds that:

- the benefit-to-risk ratio is negative;
- the medicine's therapeutic properties are insufficiently substantiated by the applicant; or
- the medicine's quantitative or qualitative composition is found to be different to that stated in the application file.

The dispensation of medicinal products is also subject to authorisation by the agency. According to the Healthcare Reform Law there are two types of distribution authorisation: en-gross and en-detail distribution authorisations.

In order to obtain either kind, the applicant must file a request and prove that:

- it owns (or holds under any other title) adequate space, equipment and installations for storage and distribution;
- it can constitute stocks only from other authorised actors;
- it will distribute medicines only to other authorised actors;
- medicines that it distributes will be verified against counterfeits;
- it has an emergency plan for the withdrawal of any medicine at the order of the agency; and

- it will keep account of all medicines bought and sold and report such information monthly to the agency.

Medicinal products may be purchased only from sellers holding a marketing authorisation.

According to the Pharmacy Law, medicinal products may be distributed to the public only by community pharmacies, closed-circuit pharmacies and drug stores which are authorised by the Ministry of Health.

Are there any restrictions on the online sale and purchase of medicinal products?

As of the time of writing, the online sale of medicinal products is not regulated in Romania.

However, a draft bill amending the Pharmacy Law, which would introduce regulations for the online sale of medicinal products, was adopted by Parliament in September 2016. The bill has yet to be ratified by the second chamber and, consequently, its wording is subject to change before coming into force.

In its current form, the bill would require pharmacies to obtain an authorisation from the Ministry of Health before selling non-prescription medicines. The ministry is also responsible for controlling and supervising the online sale of non-prescription medicines. Selling medicines online without an authorisation is subject to a fine of between €6,600 and €11,000.

Named patient supply

What rules govern named patient supply of pre-launch medicinal products?

Named patient supply is regulated by Ministry of Health Order 1018/2014.

This was adopted in order to render applicable the provisions of Article 83 of EU Regulation 726/2004.

According to Order 1018/2014, the National Agency for Medicines and Medical Devices is responsible for assessing and authorising the use of medicines yet to be granted a marketing authorisation.

Named patient supply may be authorised upon request from the medicine producer on condition that said medicine is, at the time of the request, subject to a centralised or national marketing authorisation procedure, or at least in a clinical study phase where sufficient evidence of its efficacy has been gathered. Only certain types of medication (eg, medicines designed using recombined DNA technology, or those designed for the treatment certain types of diseases, such as cancer or diabetes) may qualify for authorisation.

The authorisation for named patient supply will be issued no later than 60 days following the submission of all relevant documentation and is valid for six months. It may be extended by up to one year.

Clinical trials

Authorisation

What is the authorisation procedure for conducting clinical trials in your jurisdiction?

According to National Agency for Medicines and Medical Devices Scientific Council Decision 2/2014, clinical studies must be performed in authorised units only. Unit authorisation is valid for two years and may be extended upon request. The scope of the authorisation, as well as the necessary documentation, differs according to the type of trial the solicitant wishes to conduct (eg, authorisation for clinical studies with therapeutic benefits, authorisation for Phase I clinical trials and authorisation for bioequivalence clinical trials).

The authorisation procedure for conducting clinical studies is regulated by the National Agency for Medicines and Medical Devices Scientific Council's Decision 6/2014.

According to this, the issuance of an authorisation for performing clinical studies is subject to the following fee structure:

- €1,250 for new substances;

- €1,000 for clinical investigation of medicines not authorised in Romania but authorised in other countries or authorised for marketing, when the study is conducted with regard to aspects which fall outside the medicine's summary of characteristics;
- €410 for studies performed on products authorised in Romania, used in conformity with their summary of characteristics; and
- €600 for bioequivalence studies.

According to Ministry of Health Order 904/2006 on the implementation of good practices in the performance of clinical studies, such activities are not permitted without a favourable opinion from the the National Agency for Medicines and Medical Devices' ethics committee.

The procedure and documents necessary for obtaining the ethics committee's opinion are regulated by National Agency for Medicines and Medical Devices Scientific Council Decision 55/2006. The ethics committee's opinion will be issued within 60 days of a request. The solicitant may request an opinion before filing a request for authorisation or at the same time.

In order to obtain authorisation, the solicitant must notify the National Agency for Medicines and Medical Devices by way of a signed letter of intent with regard to the payment of the authorisation fee and its intention to submit an application, at least two weeks in advance.

Along with the request for authorisation the solicitant must submit the documents listed in Annex 1 to Decision 6/2014 (eg, the opinion of the ethics committee, information about the sponsor and the medicine's file), in electronic form.

The agency will inform the solicitant of the validity of its request within 10 days of this submission. If it finds the documentation sufficient, it will then issue an authorisation within a maximum of 60 days. Solicitants are encouraged not to bring any important amendments to the initial request after 50 days following the payment of the authorisation fee.

In case of refusal, the solicitant may request that the agency revise this within 30 days.

The authorisation for clinical studies is valid for the period of the study. However, it loses validity if the study does not begin within one year of authorisation being issued.

The solicitant must inform the agency with regard to the study's start date and any amendments to the study plan. It must also notify it when the study concludes.

Clinical practices

How robust are the standard good clinical practices followed in your jurisdiction?

The standard good clinical practices followed in Romania are regulated by Ministry of Health Orders 903, 904 and 905/2006 and are elaborated by the National Agency for Medicines and Medical Devices.

The guidelines are detailed and fit for purpose and closely follow the wording of EU regulations and directives in the field.

Reporting, disclosure and consent

What are the reporting and disclosure requirements for the results of clinical trials?

The reporting and disclosure requirements for the results of clinical trials are detailed in a guide adopted by the National Agency for Medicines and Medical Devices' Scientific Council, by way of Decision 27/2011.

According to this, conductors of clinical studies must report any serious side effects and certain non-serious side effects or abnormal laboratory results to the sponsor. All serious side effects must be reported within 24 hours and further detailed in subsequent reports.

The sponsor is obliged to report all serious, unexpected side effects which may lead to death, to the relevant bodies within seven days following the receipt of the investigator's notification. All other serious, unexpected effects must be reported by the sponsor within 15 days. The sponsor also needs to inform all clinical trial conductors and to compile an annual report for the agency.

The agency has an obligation to upload all such information it receives to the Eudravigilance Clinical Trials Module database.

What are the informed consent obligations with respect to clinical trial subjects?

In order to obtain the trial subject's consent, the investigator needs to inform him or her of the nature, significance, objectives, potential risks and consequences involved in the trial and to provide all relevant documentation. The patient's consent must be written, dated and signed. Additional safeguards are set out for vulnerable patients, such as minors or incapacitated persons. The trial subject may withdraw his or her consent at any moment without being held responsible in any way.

Insurance

What are the insurance requirements for clinical trials?

Romanian legislation does not provide for insurance requirements for clinical trials. However, all clinical trials must be conducted under the supervision of authorised medical personnel. Such personnel have an obligation to conclude a professional insurance policy.

Data protection

What data protection issues should be considered when conducting clinical trials?

All clinical trials are subject to the Personal Data Processing Law (677/2001). According to this, personal health data is considered sensitive and its processing is prohibited without the data subject's express consent.

Personal health data may be processed only by or under the supervision of health professionals under conditions of professional secrecy.

The National Agency for Medicines and Medical Devices has yet to publish a guide on adequate measures for the protection of clinical trial subjects' personal data.

Marketing authorisation

Authorisation

What is the marketing authorisation procedure for medicinal products in your jurisdiction?

In Romania, marketing authorisations are issued by the National Agency for Medicines and Medical Devices within 210 days of the submission date of the complete authorisation file.

The complete authorisation file contains:

- information regarding the applicant and the producer of the medicine;
- the qualitative and quantitative characteristics of the medicine;
- an evaluation of its potential impact on the environment;
- a description of the manufacturing method;

- information regarding how to safely store it;
- a description of the manufacturing methods used;
- the results of the pharmaceutical, preclinical and clinical testing;
- a summary of the applicant's pharmacovigilance system;
- a summary of the product's characteristics;
- a copy of the manufacture authorisation; and
- copies of any marketing authorisation previously obtained.

The applicant must also submit proof of the qualifications of the person compiling the technical summaries listed above.

The mutual recognition procedure and the decentralised authorisation procedure laid down in EU Directives 2001/83/EC and 2004/27/EC are also available to applicants, as they have been transposed into national law by means of Law 95/2006.

In certain cases, marketing authorisations are issued under condition that the holder conduct post-authorisation safety or effectiveness studies.

What criteria are considered in granting marketing authorisation?

The main criteria considered in granting a marketing authorisation are a favorable risk-to-benefit benefit ratio of the medicine, a complete description of the medicine's therapeutic effectiveness and that its composition conforms with the information provided in the application form.

What is the fee for obtaining marketing authorisation?

Obtaining a marketing authorisation is subject to a fixed fee of €1,000 for filing the request and a file evaluation fee of €9,500.

What is the validity period for marketing authorisation?

A marketing authorisation is valid for five years and can be renewed. The renewed authorisation will be valid indefinitely, although in certain circumstances the National Agency for Medicines and Medical Devices may decide to renew it for another five-year term only.

What are the consequences of failure to obtain marketing authorisation?

No medicine can be marketed unless it has been granted a marketing authorisation. The placement on the market of a medicine authorised in a different state by a distributor which does not hold a marketing authorisation will make the holder subject to fines of between €2,200 and €6,600, according to Article 875(1)y of the Healthcare Reform Law (95/2006).

Pharmacovigilance

Monitoring

What post-market monitoring mechanisms are in place to ensure the ongoing safety and efficacy of medicinal products after marketing authorisation has been granted?

Marketing authorisation holders are required to keep records of all side effects signalled either by patients or by healthcare professionals, no matter whether they showed up in the European Union or non-EU countries. Holders are also required to convey such data to the Eudravigilance database within 90 days of receiving it.

Holders are also required to submit periodic reports to the European Medicines Agency containing information related to their pharmacovigilance obligations. In certain circumstances they may be required by the National Agency for Medicines and Medical Devices to conduct post-authorisation studies on the medicine's safety or efficacy.

Data protection

What data protection issues should be considered when conducting pharmacovigilance activities?

No specific data protection regulation with regard to pharmacovigilance activities has been adopted by the Ministry of Health or the National Agency for Medicines and Medical Devices so far.

Consequently, all pharmacovigilance activities must be performed according to the Personal Data Processing Law (677/2001). This states that personal data concerning health is considered sensitive and cannot be processed without the data subject's express consent.

Personal data regarding health may be processed only by or under the supervision of health professionals under the condition of professional secrecy.

Pricing and reimbursement

Pricing

Are there rules governing the pricing of medicinal products in your jurisdiction?

The pricing of medicinal products which are totally or partially reimbursed by the Romanian social security system is regulated by the Healthcare Reform Law (95/2006) and Government Decision 800/2016 on the methodology for calculating and approving maximum prices for human-use medicines (except for over-the-counter medicines) authorised for sale in Romania.

According to Decision 800/2016, the holder of a newly issued marketing authorisation must request approval from the Ministry of Health for the medicine's price. Such a request must be accompanied by a number of documents, including:

- a copy of the marketing authorisation;
- an excerpt from the National Agency for Medicines and Medical Devices' website with the medicine's details;
- catalogues of manufacturer prices applied in certain European countries (ie, Austria, Belgium, Bulgaria, the Czech Republic, Germany, Greece, Hungary, Italy, Lithuania, Poland, Slovakia and Spain); and
- an affidavit regarding the accuracy of the information provided.

The marketing authorisation holder must also propose a maximum price in lei. This must be equal to or lower than the lowest price at which the medicine is listed as being sold in the countries of reference. If the medicine is not priced in any of these countries, the price at which it is sold in its country of origin may be used as a guide.

In the case of generic medicines, the common international denomination included in the list of essential medicines recommended by the World Health Organisation, as well as in the sub-list of medicines with 100% reimbursement ratio by comparison with reference price (provided that the common international denomination is not included on other reimbursement sub-lists), should be provided. The price proposed by the marketing authorisation holder must be the lower of the price approved in the National Catalogue of Medicines for the innovative medicine and the average of the three lowest prices for the same medicine in the countries of reference listed above.

Where a generic medicine does not meet these conditions, the marketing authorisation holder must propose a price equal to or lower than the price calculated as per the provisions of paragraph three of this section and the generic reference price.

The generic reference price is approved by the Ministry of Health only once, when the approval for the first generic medicine in the category bearing the same common international denomination and in the same concentration and pharmaceutic form is required.

The generic reference price is 65% of the manufacturer price for the innovative medicine, whatever the price proposed by the marketing authorisation holder for the first generic medicine. The price of the innovative medicine used as reference will be that listed in the National Catalogue of Medicines at the time of the request. The generic reference price in case of biosimilar medicines will be 80% of that of the innovative medicine.

The ministry will issue either an approval order or a refusal notification within 90 days of the submission of the complete documentation.

Any approved price is valid until the following annual correction of prices.

If the marketing authorisation holder changes yet the place of manufacture remains the same, the new holder must request the ministry's approval for its price within 60 days of taking over the authorisation. In this scenario the price will be approved within the maximum limit of the price approved before the change of authorisation holder.

The price of a medicine imported into Romania from a country that is a signatory to an international agreement on cooperation with regard to access to human-use medicines will be at most equal to the manufacturer's price, as regulated in the country of origin.

Reimbursement

What is the structure for state reimbursement of medicinal product costs?

Only the cost of medicines included in the list of international common denominations corresponding to medicines that benefit insured persons, either with or without personal contribution, based on prescription, in the national health insurance system, as well as common international denominations corresponding to medicines granted in national health programmes, may be reimbursed.

The reimbursement of medicinal product costs is administered by the Ministry of Health and the National Health Insurance Authority (and its subordinated local health insurance authorities). Reimbursement costs are covered by the National Health Insurance Fund.

The list is put together by the agency and is updated annually. It is then approved by way of a government decision.

In order to have a medicine listed, solicitants must file a request with the agency, accompanied by the relevant documentation provided in Ministry of Health Order 861/2014, as further amended. An approval or rejection must be issued by the agency within 90 days of the application date, save for cases where the medicine's price has yet to be approved, where the term may be extended by an additional 90 days.

Medicinal products which qualify for reimbursement may be released only by authorised pharmacies which have concluded agreements with local health insurance authorities.

<u>Advertising and labelling</u>

Advertising

How is the advertising of medicinal products to healthcare professionals and the general public regulated in your jurisdiction?

The advertising of medicinal products – both to professionals and to the general public – is regulated by the Healthcare Reform Law 95/2006 and Ministry of Health Order 194/2015.

The main principles are the prohibition of misleading and comparative advertising, the promotion of rational use and the conformity of advertising materials with the product's summary of characteristics.

According to the abovementioned acts, any type of organised activity intended to directly or indirectly inform the general public or healthcare professionals with regard to medicines (whether generic, innovative, prescription based or over the counter), as well as any type of promotion intended to encourage the prescription, distribution, sale, administration, recommendation or use of a medicinal product is considered advertising.

Advertising to the general public is prohibited for medicines that:

- are not authorised for marketing in Romania;
- can be released only on prescription;
- contain psychotropic substances; and
- are prescribed and released in the health insurance system, save in cases of approved vaccination campaigns.

Advertising and educational materials for the general public may be released only after approval is issued by the National Agency for Medicines and Medical Devices, subject to the payment of an assessment fee of between €350 and €550.

Medicine advertising directed to healthcare professionals must be carried out in accordance with the product's summary of characteristics and the marketing authorisation. Any off-label information provided to healthcare professionals must be clearly marked as such. The advertisement of a medicine before obtaining a marketing authorisation and the promotion of a medicine aside from its therapeutic indications are prohibited.

The offer, supply or promise of gifts, financial advantages or other benefits to a healthcare professional in order for him or her to prescribe, purchase, provide, sell or administer a medicine is prohibited unless these are worth less than €35 and are for advertising material relevant to the practice of medicine or pharmacies.

Do any special rules apply to online advertising of medicinal products?

Online advertising of medicinal products is subject to the National Agency for Medicines and Medical Devices' assessment and evaluation.

The online advertising of medicinal products released on prescription is permitted only where this is directed to healthcare professionals and the marketing authorisation holder can prove the restriction of access to such content by others.

The online advertising of other categories of medicinal products is permitted when directed to the general public, as long as users have access to the medicine's information leaflet.

All websites advertising medicinal products must provide information with regard to the sponsor, complete references to all sources of medical information published and the website's target audience (eg, public health or therapeutic alternatives). All information conveyed to the public by means of online advertising must be supported by scientific references compatible with the approved summary of characteristics of the product.

Labelling

What are the packaging and labelling requirements for medicinal products?

A detailed guide regarding packaging and labelling was adopted by the Scientific Council of the National Agency for Medicines and Medical Devices by way of Decision 8/2009.

According to this, a marketing authorisation solicitant must, when filing the request, submit template models for the product's primary and secondary packaging, together with a draft of the prospectus. Information on the packaging must be written in Romanian, although other languages are permitted provided that the translations are accurate.

The secondary package or primary package – where there is no secondary package – must contain information regarding:

- the name of the medicine (also in Braille form), its concentration and pharmaceutic form, its target audience and its common international denomination;
- its active substances;
- a list of excipients;
- methods of administration;
- special warnings against use by children and, if necessary, other warnings;
- expiration date and storage instructions;
- information regarding the marketing authorisation holder;
- the marketing authorisation number;
- the fabrication serial number;
- the user manual (in the case of non-prescription medicines); and
- anti-counterfeiting elements (not applicable to non-prescription medicines unless they are at high risk of being counterfeited).

The agency may refuse to grant the marketing authorisation in case of non-compliance with the packaging and labelling regulations or if the packaging and labelling is found not to correspond with the information presented in the product's summary of characteristics.

How is the promotion of off-label use regulated?

Information not present in the marketing authorisation may be provided only in response to documented requests from healthcare professionals.

Any off-label information provided to healthcare professionals must be clearly marked as such.

Relations with healthcare professionals

Gifts and incentives

What rules apply to the provision of gifts, discounts and other incentives to healthcare professionals?

The offer, supply or promise of gifts, financial advantages or other benefits to a healthcare professional in order for him or her to prescribe, purchase, provide, sell or administer a medicine is prohibited unless these are worth less than €35 and are for advertising material relevant to the practice of medicine or pharmacies.

With regard to commercial promotion events, hospitality is restricted to the event's main purpose and cannot be extended to anyone other than healthcare professionals.

Healthcare professionals also have an obligation not to request gifts, benefits or other incentives and, if offered, to

refuse them.

These rules do not apply to commercial practices regarding price, profit margins and sales.

Besides this, no sponsorship of healthcare professionals should be related to the name of a medicine. Medicine producers and marketing authorisation holders, as well as their representatives, have an annual obligation to declare all sponsorship activities carried out during the previous year to the National Agency for Medicines and Medical Devices.

Liability

Defect products

How can a liability claim for a defective medicinal product be brought?

A liability claim for a defective medicinal product can be brought in accordance with the provisions of Government Ordinance 21/1992 regarding consumer protection and the Civil Code (287/2009).

Consumers have the right to be protected against the purchase of a product that may harm their life, health and safety. In addition, consumer protection legislation provides that consumers have the right to be reimbursed for damages caused by the inadequate quality of products and services.

Liability claims with regard to defective products are exempt from stamp duty and can be made at the court closest to the consumer's residence.

Which parties can be held liable for a defective medicinal product?

The main bearers of liability for a defective medicinal product are the manufacturer and the marketing authorisation holder. Other parties (eg, distributors and pharmacists) may be held liable inasmuch as a link can be proved between their conduct and the harm caused to the consumer.

Remedies

What remedies are available to successful claimants?

The person found liable must compensate the harmed person for the prejudice suffered by him or her.

In case of bodily and health harm, the person held liable must also compensate for:

- the lack of working capacity caused to the harmed person;
- healthcare expenditures; and
- the increase of the harmed person's living costs.

In addition, additional damages may be awarded if the harmed person's family and social life has been reduced as a consequence of using the defective product.

Exclusion and limitation

On what grounds can liability be excluded?

Liability can be excluded if the person held liable can prove that all reasonable efforts were made to reduce risks.

What preventive steps can be taken to limit liability?

In order to limit liability, medicine manufacturers and marketing authorisation holders should conduct extensive clinical trials and effective information campaigns.

Compliance and enforcement

Enforcement

What measures are in place to enforce the laws governing medicinal products?

According to Government Decision 734/2010 regulating the organisation and functioning of the National Agency for Medicines and Medical Devices, the agency is the main body responsible for supervising and controlling the medicine and medical devices market.

It supervises and controls the manufacture, import and distribution of human-use medicines by way of issuing authorisations, performing periodic inspections and planned or unannounced control activities. At the same time, it examines all complaints regarding the effect or quality of medicines and performs inspections on behalf of the Ministry of Health, at the latter's request.

The agency is also responsible for authorising and verifying the performance of clinical studies, as well as the organisation, guidance and control of pharmacovigilance activities.

Dishonest practices

What mechanisms are in place to combat bribery, fraud, collusion, counterfeiting and other dishonest practices in the pharmaceutical sector?

Certain provisions regarding the combat of bribery, fraud, collusion, counterfeiting and dishonest practices can be found in different normative acts regulating the pharmaceutical sector, although these are mostly regulated by way of generally applicable laws, such as those dealing with anti-corruption or intellectual property. The mechanisms set in place in this regard consist of authorisation and control procedures.

Bribery Ministry of Health Order 194/2015 regulating the advertising of medicinal products contains implicit provisions against bribery in the chapter regulating permitted forms of advertising materials intended for healthcare professionals. According to this, the offer, supply or promise of gifts, financial advantages or other benefits to a healthcare professional in order for him or her to prescribe, purchase, provide, sell or administer a medicine is prohibited unless these are worth less than €35 and are for advertising material relevant to the practice of medicine or pharmacies.

At a general level bribery is regulated by the Criminal Code (286/2009) and the Prevention of Corruption Law (78/2000).

Fraud Mechanisms for combating fraud can be found in the Criminal Code, the Prevention of Corruption Law and the Punishment for Corruption Law (161/2003), which set out punishments, ways for the public to notify competent authorities and the powers of these competent authorities. In addition, the Tax Code (277/2015) sets out registration and reporting mechanisms.

Collusion Collusion is generally regulated by the Competition Law (21/1996), which punishes certain types of agreement (ie, price fixing, market sharing and the limitation of production, technical developments and investments) as anti-competitive practices. The law also establishes the Competition Council as the main regulatory and control authority in the field.

Counterfeiting The Healthcare Reform Law (95/2006) obliges the National Agency for Medicines and Medical Devices and other competent authorities to take measures against the introduction of suspected counterfeit medicines, even when they are not intended for marketing in Romania.

The agency has set up a website (www.crimemedicine.ro) whereby the public can notify it of potential counterfeits.

The law's provisions on packaging and labelling provide an obligation for marketing authorisation holders to use anti-counterfeiting measures in the packaging of medicines in order to allow authorised distributers to verify the authenticity of medicines.

In addition, the Trademarks Law (84/1998) and the IP Customs Regime Law (344/2005) set out remedies for the placement on the market of counterfeit goods.

Other dishonest practices Provisions dealing with other dishonest practices are set out in the Competition Law and the Law on Misleading and Comparative Advertising (158/2008), which set out dishonest practices notification procedures and control and penalty mechanisms to be carried out by the Competition Council, the Ministry of Finance and the National Audiovisual Council.

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