

Project Title: The role of Turkey as a producing and transit country in counterfeit products that target EU countries

By Dilara Bural, Second year PhD student and Early Stage Marie Curie Research Fellow at Teesside University

Chosen Workstream: Economic and Financial Crime

Abstract

Counterfeiting, which falls under the umbrella of illicit trade - along with contraband trade, illicit trade in controlled goods and trade in stolen goods - has mostly attracted the attention of academics from marketing, business and management. However, despite evidence showing that IP crime is linked to other types of crimes such as money laundering, drug trafficking and terrorism, not enough attention is paid by the fields of Criminology and Criminal Justice.

Another research area that hasn't received attention is the role of Turkey, which has been identified as an important producing as well as transit country in trade in counterfeit goods. According to OECD, in 2015 and 2016 Turkey was among the top 3 provenance economies of counterfeit goods entering the EU, as well as a key transit point for several product categories, yet there is a paucity of research that has looked into the scale and scope of counterfeiting in Turkey and how this effects the EU.

No matter how strong EU's Intellectual Property standards are, a crackdown on the trade in counterfeit goods is not possible unless EU's neighbouring countries, trade partners and their IP standards are taken into consideration. Turkey, for instance, despite being a party to international conventions such as the Paris Convention, the Berne Convention, TRIPS, and despite also having national legislations to protect IP rights, has been charged by several sources as being ineffective in the enforcement of IP laws. Moreover, evidence suggests that IP infringement and counterfeit goods are widespread, and that Turkey continues to be home to countless bazaars where any type of counterfeit good could be purchased, such as, but not limited to, luxury items, handbags, sunglasses, watches, perfumes and make up products, electronic products such as chargers, earphones as well as electronic toys.

This qualitative project will benefit from primary and secondary data sources. The primary data consist of semi structured interviews. The secondary data on the other hand includes customs seizures as well as judicial documents available on official government websites. Taking into consideration the political economy, criminogenic asymmetries, as well as cultural factors and tourism, this study aims to understand the scale and the scope of counterfeiting in Turkey through a semi structured qualitative study with 50 individuals that consist of law enforcement officers specialized in IP infringement, organised crime and smuggling, lawyers and prosecutors with expertise in Intellectual Property rights, academics that have conducted research and published on counterfeiting, experts in trade and customs, experts in free trade zones, as well as business owners affected by counterfeiting in Turkey and lastly small-scale counterfeit sellers. The secondary data to be analysed consists of Border seizures by the Bulgarian customs authorities, published by the official website of National Customs Agency of the Republic of Bulgaria. The seizures made by the Bulgarian authorities not only at the Turkey-Bulgaria border crossing points (Kapitan Andreevo-Kapkule, Lesovo-Hamzabeyli, Malko Tarnovo-Aziziye), but also at the Bulgaria-Romania border crossings (mainly Ruse-Giurgiu and Vidin-Calafat) are important since they provide the nature of the goods that enter Bulgaria as well as other EU countries from Turkey. For example, the analysis of the latest 100

seizures related to undocumented and smuggled goods seized by customs shows that counterfeit textile and perfumes are among popular goods that enter EU from Turkey. Another important secondary data for this study are judicial cases made to the Turkish Court of Cassation's 19th Criminal Chamber, which deals with all cases related to IPR infringements among others. Analysing the judicial cases will help identify the link between seized goods at the borders and the counterfeit goods that are being produced and sold in Turkey. It is important to note that the Board of First Presidency of the Court of Cassation decided to close several chambers from July 1st, 2021 including the 19th Criminal Chamber, and duties of the chamber were distributed to other chambers, therefore this study will be looking at the latest 100 judicial cases published on the official website.

In essence, this study attempts to fill a gap in the literature by looking at the supply-side of the counterfeiting in Turkey and how it effects the European Union countries by analysing; the scope of the counterfeiting market in Turkey, the effectiveness of regulations and laws regarding Intellectual Property in Turkey, the effectiveness of customs procedures, the relationship between free trade zones and counterfeiting, as well as the role of corruption in facilitating the trade in counterfeiting.

Initial findings suggest that Turkey is indeed a counterfeit paradise due to both the cultural acceptance of counterfeit goods, and the demographic of the population who need to spend their money wisely. According to Trading Economics, 10 million employees in Turkey are paid the minimum wage. Which means the demand side is a strong factor in the prevalence and diversity of counterfeit goods in Turkey. The border seizures also suggest that thousands of counterfeit goods enter EU through Bulgaria every day through cars, passenger buses and trucks.

Although IP experts praise existing laws and regulations, it has been noted that it is hard to implement those laws when a given city's economy depends on counterfeiting (such as touristic locations). Furthermore, counterfeiting is not heavily policed in Turkey, the law enforcement only gets involved when the counterfeits pose health and safety hazards to citizens (e.g. alcohol). Corruption and bribery are popular themes that appeared in the majority of the interviews. In August 2019, Turkey started implementing Electronic Customs Declaration (ECD), which according to some experts might reduce bribery and corruption by limiting face-to-face interactions between customers and customs, but there is no way to prove this due to the illegal nature of the activity, not to mention this new implementation would not affect those who already have a contact in customs.