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INCONSISTENCIES OF THE APPLICATION OF REGULATIONS ABOUT DRUG IMPORTS: A CASE REPORT

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Headline of the contribution: Inconsistencies of the application of regulations about drug imports: a case report.

Abstract:

Aim: To report a case where application of the French regulation on drug imports impeached in France the use of a French registered drug.
Case-report: The authors were not allowed by the French Drug Agency (AFSSaPS) to use a French registered drug which was no more available in France but in Sweden.
Discussion: The authors emphasize on inconsistencies of the regulations on drug imports and on its application by the French Drug Agency.
Conclusion: Clarification of European regulations regarding drug circulation within Europe is waited.

Key-words: drugs, import, regulation, Europe, France.

Introduction:

In Europe, regulations about drug imports and exports were based on the fear of introducing unsafe drugs from countries where drug registration process may be light (Blanc 1997). This logical and consistent objective may be forgotten by authorities in charge of applying it. We report a case where the application of the French regulation on drug imports (French Public Health Code - FPHC) impeached the use in France of a French registered drug.

Regulatory context: Since 1965, in Europe (65/65/EC Directive), drugs for human use can only be marketed after obtaining a marketing authorisation (MA) of a health authority: in France, it is now the *Agence française de sécurité sanitaire des produits de santé* (AFSSaPS) which issues drug MA by national procedure. The role of this agency is also to issue some special authorisations regarding drugs, including import authorisations.

Clinical context: Dextran 40 is a polymer with known inhibitory effects on complement system and intrinsic coagulation pathway; it is used as a graft-preservation solution in lung transplantation (Perfadex°) (Reichart et al. 2003). As a drug (Rheomacrodex°), it was authorised as an intravascular fluid volume replacement solution and for prophylaxis of postoperative venous thrombosis.

Case description:

One of us (EF), during a stay in Toronto General Hospital (Ontario, Canada) in 2005, observed favourable outcomes on lung transplantation bronchial sutures of a immediate postoperative protocol including 500 mL per day of 10% dextran 40 in 5% dextrose infusion for 7 days.

In October 2005, we looked to put this therapeutic protocol into our standard practice. We identified a drug with dextran 40 (Rheomacrodex°) with a valid MA and labelled as an intravascular fluid volume replacement solution, but not actively marketed since March 2000. A search in a pharmacy reference book (Martindale 2005) allowed us to identify European countries where Rheomacrodex° was still available: a drug import company (Idis, London, UK) established us on 17 October 2005 a quotation for importation of Rheomacrodex° from the Swedish manufacturer Meda, but demanded an authorisation from AFSSaPS.

We called AFSSaPS on 18 October 2005 for practical instructions about formalities. We were told by the Drug and Biological Products Evaluation Department that a parallel import authorisation (PIA) could only be granted to a pharmaceutical company but not to a hospital pharmacy, but that a request for an import authorisation was possible.

Thus, we established an import authorisation dossier including the request form with mention of the planed use (clinical labelled use of a drug with a valid French MA) and a clinical argument.

The dossier was sent to AFSSaPS on 24 October 2005. On 5 December 2005, we were notified by phone that our request could not be examined because the French MA of Rheomacrodex° has been cancelled on 27 October 2005.

Discussion:

From this case, comments can be drove on juridical and organisational points.

First, as nowadays the European market is supposed to be "single" even for personal use of drugs (Mäkinen et al. 2002), it seems paradoxal that a hospital has to obtain an administrative authorisation to can supply from another European Member State a drug regularly approved in both countries. This seems even in contradiction with the text of the regulations: the article R.5121-108 of FPHC refers only to drugs without MA and states that the import authorisation may be refused if the drug may represent a risk for the public heath, which was obviously not the case. In our specific situation, the attitude of the import company, confirmed by AFSSaPS, seems excessive.

Second, the PIA definition (drug approved in another European Union Member State and of same composition of a French approved drug) was perfectly corresponding to our request. However, AFSSaPs official denied us to enter this way, which was reserved, according to her, for pharmaceutical companies, whatever the article R.5121-120 of FPHC does not mention this restriction.

Even if we disagreed with AFSSaPS' interpretation of the law on these 2 points, we did not bring this case to court.

Third, it seems us especially illogical that AFSSaPS, asked for an import authorisation of a drug previously approved by it-self, can imagine evaluating the clinical relevance of the request, as far as if it has been stated upon this point when the MA was issued: for us, AFSSaPS would only act for the Customs clearance.

Last, the conditions (43-day delay, phone call) were we received the answer from AFSSaPS to our import request seem unacceptable. We can even speculate if the time convergence between our import request and the MA cancellation was fortuitous.

Conclusion:

It seems absolutely necessary to clarify the juridical status of the circulation of drugs inside the European Union to make it simpler and safer. Extensive application of regulations by national authorities would merit improvements. A true Europe of Drug is still waited.

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