

FOOD SAFETY AND VETERINARY LEGISLATION COMPARISON WITH ACQUIS

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Abstract

This paper discusses food safety and veterinary service legislation in Albania and their degree of the approximation with the EU legislation. This paper also covers a description of the competent authorities in Albania, empowered with inspections and monitoring duties of the market but also with tools for providing adequate response to eventual emergencies. The paper underlines the outcome of the latest Progress Report on Albania, especially with regard to the building capacity of the competent authorities and further approximation of the domestic legislation with the *acquis communautaire* obligations of the Republic of Albania in view of the provisions of the Stabilization and Association Agreement. At the end, the paper gives conclusion as per the deficiencies that are observed in the enforcement of the provisions of the legislation.

Keywords: Acquis communautaire, food safety, veterinary

Introduction

This paper will deal with the food security and veterinary service, aspects believed to be closely linked together in order to form a sort of ‘food chain security’. The paper will discuss and will make a presentation of the competent authorities in charge of ensuring food safety and quality and animal control as welfare (the authorities are interconnected with each other and under the Ministry of Agriculture, Rural Development and Water Administration). Additionally the paper will analyze the work performed by the legislator on one hand with regard to the measures taken in the Republic of Albania by focusing on the approximation of domestic law with the *acquis communautaire* (giving so a wider view of the steps taken in fulfilling the requirement as per the Stabilization and Association Agreement).

The status of alignment of the domestic legislation with the *acquis*, will primarily be based on the provisions of the Decision of Council of Ministers no. 438, dated 02.07.2014 “On National Plan for the European Integration 2014-2020” (COM Decision 438/2014), which sets out *inter alia*

short and mid-term goals of the Albanian government in the path to the accession the European Union. In the paper we will discuss the main features of the aligned safety food legislation adopted by the Albanian legislator.

On the other hand we make an overview of the work done, in the field, by the state authority to enforce the provisions of the applicable law. This review will rely on the performance reports of the authority. Moreover we will present and describe the organization of the state authority and its modus operandi mostly in the field of inspections.

Legislation and competent authorities

According to the latest Progress Report on Albania, released October 2014, “...*there has been little progress in the area of food safety, veterinary and phytosanitary policy. Risk assessment capacity has not yet been established and systematic inspection plans have not yet been adopted. The proper functioning of relevant services is hampered by overlapping responsibilities and by the lack of communication, properly qualified staff and financial resources. A comprehensive strategy clarifying the legal, institutional and administrative framework needs to be adopted. Overall, preparations remain at an early stage.*” (EU Commission Progress report on Albania, 2014) The foregoing statement might be considered the leitmotiv of all the Progress Reports on Albania in last period from 2012 – 2014, thus one can easily state that the sector is stalling and requires strong initiatives from the central government and competent authorities. The above conclusion draw by the EU commission is based on Albania’s engagement in virtue of its ambition to join the European Union. On June 2006 the Republic of Albania and EU members entered into Stabilization and Association Agreement. Based on article 70 of the said agreement the Republic of Albania must align its legal framework with the European legislation. The foregoing article establishes that, Albania shall endeavour to ensure that existing laws and future legislation will be gradually made compatible with European legislation, but it should also ensure that existing and future legislation is properly implemented and enforced (Stabilization and Association Agreement, 2006).

The EU-Albania Stabilization and Association Agreement forms part of a broader regional process (the Stabilization and Association Process) and aims to support Albania’s economic transition, as well as to strengthen its integration into the EU Single Market. Albania’s reform agenda under the Stabilization and Association Agreement covers areas from political dialogue and regional cooperation to freedoms in the movement of goods, services, workers and capital. Other topics covered are the mutual co-operation in justice and internal affairs. The Stabilization and Association Agreement imposes extensive trade liberalization with EU and other neighboring

countries and establishes for non-tariff liberalization through the gradual harmonization with EU framework as well directives in the areas of standards, certification, customs administration, competition, and intellectual property rights (Zahariadis, 2007).

In the area of food security the relevant articles of the Stabilization Association Agreement dealing such aspects as indicated above are considered articles 70 and 95 of the agreement. Although there is no direct reference to food safety from the combined reading of the two articles it is understandable that emerges a duty to align domestic legislation with the EU legislation (art. 70) and a general provision to comply as per article 95 dedicated to agriculture and agro-industrial sector.

On food safety the main piece of EU legislation is considered the Regulation (EC) No. 178/2002 of the European Parliament and of the Council dated 28 January 2002 laying down the general principles and requirements of food law and health protection, establishing the European Food Safety Authority and laying down procedures in matters of food safety (Regulation 178/2002).

To this effect, the Albanian parliament passed on 28.01.2008 the Law no. 9863 “On food” (Food Law) which according to the COM Decision 438/2014 partially reflects the provisions of Regulation 178/2002.

The Food Law aims at providing the basis for securing a high protection of health and consumers’ interests. The law *inter alia* sets out the general requirements on food security and hygiene including pet food. It determines general requirements on labeling food and pet food, those related to the placement into the market of the so-called new food and new food for animals and its applicability is extended to all types of production, processing and distribution. Additionally the Food Law establishes the National Food Authority, as the authority in charge for *inter alia* inspection regarding food quality and security. The National Food Authority is a legal entity under the dependence of relevant Ministry of Agriculture, Rural Development and Water Administration and is headquartered in Tirana.

From the reading of the law it is observed that it generally incorporates the main provisions of the Regulation 178/2002 including recommendations such as discussing and regulating *inter alia* in one document criteria for human and animal food. On the other side as indicated above the National Food Authority (NFA) while headquartered in Tirana, operates through regional directorates all over the country.

The NFA is the responsible structure to monitor food safety in order to fulfill the legal, economic and social requirements. As such its field of operation covers (1) the risk assessment process in food, feed and plant protection; (2) control practices in unification of food, feed and plant protection at national level; (3) coordinating authorized laboratories

activities; (4) blocking temporarily or permanently the activity of food and feed business operators do not meet food safety standards in force (NFA, 2015). In compliance with the provisions of the Regulation 178/2002 the Albanian authority is equipped also with scientific laboratories and experts.

According to the Annual Performance analysis of the NFA for 2014, this entity for the first time since its creation has drafted on a risk-based methodology the Formal Annual Plan Control and the Sampling Plan for 2015. These plans were required from the Stabilization and Association Agreement and they will serve for the formal inspections to be realized according to EU standards. For 2014, this entity has realized 17,264 inspections for the non-animal origin products; 12,446 inspections for the animal origin products; 4,096 inspections. Still some of the main problems raised from the 2014 activity were deficiencies in human resources, in the funds dedicated to this entity, and necessary infrastructure (NFA, 2015).

The COM Decision 438/2014 describes the situation as of the year 2014 as generally optimistic. In the chapter dedicated to food safety the government states that in the area generally has been made progress. The National Food Authority has strengthened its capacities and operates in 12 regions of the country.

As for the aspect of placement of the food into the market it has been approved the package on food hygiene such as Order no. 292/2006 dated 12.06.2006 “On the approval of the regulation on health conditions for the production of fresh meat and respective placement into the market”. The Order 292/2006 issued by the minister of agriculture determines health conditions which fresh meat should met during production and marketing. The order partially reflects provisions of Directive 64/433/CEE.

Another piece of legislation is the Order no. 5, dated 09.01.2007 “On the approval of the criterion of pureness for certain authorized additives” which as well partially reflects the provisions of Directive 95/45/CEE.

Certainly the above is not an exhaustive list of the legislative acts adopted by the Albanian legislator in the field of food security.

On the other side the veterinary service in the Republic of Albania is based on Law 10465, dated 29.09.2011 “On veterinary service in the Republic of Albania” (Law 10465/2011). Likewise the legislation on food also the Law 10465/2011 has been partially approximated with the applicable EU legislation however the said law incorporates provisions of directives such as Directive 82/894/CEE, Directive 86/609/CEE, Directive 90/425/CEE, etc. The competent veterinary authority is the Directorate of Veterinary within the Ministry of Agriculture, Rural Development and Waters Administration. The directorate is responsible for the welfare and identification of the animals as well registration of farms.

According to data furnished by the COM Decision 438/2014 the regional veterinary service is composed of 157 veterinary officials distributed in 12 regions (6 to 20 veterinary per region). In each of the regions it is established the Veterinary Sector part of the Agricultural Regional Directorate (COM Decision 438, 2014). The veterinary officials are responsible for the enforcement of provisions of Law 10465/2011 and in particular they perform the identification and registration of animal, control the import/export of the same and as well are responsible for animal health.

Veterinary officers carry out controls and inspections in farms, markets and animal fairs, etc., as well as the indicated above inspectors (veterinary) identify and perform registration of animals, control their pharmaceuticals and sale.

As indicated above Law 10465/2011 has been partially approximated with the *acquis*, however it aims to set out basic principles for health protection of animals and their welfare, this as per the standards of World Organization for Animal Health and those standards applicable in the European Union. Additionally, by the provisions of the law, the Albanian legislator also aims to provide for the regulation, organization, financing of the veterinary service, determines its responsibilities and procedures to be followed by veterinary officers. Additionally the law addresses the protection of public health from transmissible zootechnical disease, this in alignment with the approach of the European Union.

In conclusion and in spite of our efforts we are not able to produce statistics with regard inspections effectuated by the veterinary service in Albania as to the best of our knowledge no such data are available for consultation.

Notwithstanding the above, for purposes of this paper we provide the findings of an audit carried out by the Food and Veterinary Office (EU) in the ambit of assessment of performance of the Albanian competent authorities with regard to supervision of public health conditions of the production of eggs and egg products intended for export to the European Union. The audit concluded that the Albanian legislation (export of eggs) was broadly in line with the *acquis*, however there is room for improvement with regard the certification system. The audit points out that due to lack of unique identifying number in the export certificates the authenticity of the certificate itself is compromised as is missing the link between such documents and certifying officer (FVO, 2014).

Conclusion

The paper has shown that in general the domestic legislation is in line with the *acquis*. However deficiencies are observed in the enforcement of the provisions of the legislation.

The 2014 Progress Report indicates that little progress has been done by the country in the last year. In quoting the report “...*risk assessment capacity has not yet been established and systematic inspection plans have not yet been adopted. The proper functioning of relevant services is hampered by overlapping responsibilities and by the lack of communication, properly qualified staff and financial resources...*”. It is clear that the main issues are related to the poor enforcement of the provisions of the law and not the law itself (although not fully approximated). This is a characteristic found also with regard to other aspects, for example in intellectual property rights enforcement, for which the conclusion of the report are very similar. In short the main objective should be increasing of competent authorities’ human resources expertise and awareness with regard to their duties and functions.

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