Harmonization of National Legislation in the Republic of Serbia towards to the EU accession

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Food safety system in EU

• Effective food control system are essential to protect the health of consumers.
• It is vital in enabling countries to assure safety and quality of food products for international trade and to verify that imported food products meet national requirements.
• Food safety incidents during the nineties forced the European Union to review their food safety systems and to look for better ways to protect consumers against unsafe food (BSE, dioxin etc.)
• In 2000 the EU launched its **White Paper on Food Safety**. Whit Paper on Food safety comprises a set of documents containing proposals for Community action procedures in a entire food safety area. A new legal basis for appropriate food and animal feed production and food safety control.
• The White Paper proposes that all parts of the food production chain must be subject to official controls. Responsibility for safe food production and control is shared between operators, national authorities and the European Commission. The concept “from farm to table”.
• The EU introduced the **General Food Law** in 2002, defining general food safety principles and food safety procedures.

• The EU has established a specific legislation to harmonize official control procedures in the Member States.

• It also regulates the provisions that countries outside the EU should fulfill for entering the EU markets with their food products.

• The **Codex Alimentarius Commission** develops international standards, guidelines and recommendations to reduce food safety risks. The Codex Alimentarius developed risk analysis, the integrated food chain approach and HACCP which are the key elements of food safety control.

• **European Food Safety Authority (EFSA)** was set up as EU risk assessment body. EFSA started its activities in 2003, by focusing on risk assessment and scientific advice in the field of food safety questions.

• However, although control procedures are largely harmonized, the structure and set-up of control organizations differs across the European Union.
The **risk analysis paradigm**, including risk assessment, risk management and risk communication have been incorporated as general principles in EU law and form the legal basis of the food safety systems in the Member States.

**Risk management** is a prime responsibility of governments to protect consumers against food safety hazards. Risk management is based on risk assessment and scientific evidence.

There is a large variety of food safety **control systems** throughout the Member States. In some countries the responsibility of food control is decentralized, whereas in other countries food safety control is centralized in one central organization.

**Regulations and directives** in the framework of the General Food Law have to be transposed into national legislation of individual EU Member States regarding enforcement and the designation of the competent authority. Regulations are imposed directly on countries and need no further interpretation, while directives may be implemented according to national policies.

**National implementation of EU** law must fit into national structures (centralized or decentralized control structures). Therefore most EU food safety legislation focuses on criteria and procedures rather than on detailed regulations for control.
Harmonization of national legislation and EU accession

• The basic rules with regard to feed and food law are laid down in Regulation (EC) No 178/2002 of the European Parliament, often referred to as the "General Food Law". This law lays down the general principles and requirements of food legislation, the establishment the European Food Safety Authority, and procedures in matters of food safety.

• More specific feed and food legislations cover different areas such as animal nutrition including medicated feeding stuffs, feed and food hygiene, zoonoses, animal by-products, residues and contaminants, microbiological criteria, control and eradication of animal diseases with a public health impact, feed and food labelling, pesticides, feed and food additives, vitamins, mineral salts, trace elements and other additives, materials in contact with food, quality and compositional requirements, drinking water, ionization, novel foods or GMOs.
Harmonization of national legislation and EU accession

- To achieve equivalent official feed and food control systems and to establish a harmonized framework of general rules at Community level for carrying out such controls, Regulation No. 882/2004/EC on the official controls, performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules and Regulation No. 854/2004/EC laying down specific rules for the organization of official controls on products of animal origin intended for human consumption have been adopted.

- Candidates countries are obliged to transpose into national legal system and adopt EU regulations and decisions as their own. Those legal acts are in force and take effects until the formal accession in the EU, when new member state will embrace EU legislation.

- By the process of negotiation and with effective transposition, implementation and enforcement, candidate countries give guaranties and fulfill essential prerequisite for accession in to EU.
Benefits

• Removal of trade barriers. The removal of technical obstacles to trade is based on the Treaty on the functioning of the EU.

• Such alignment is not, however, as easy as it seems at first sight. As technical regulations relate to production systems and as their harmonization sometimes entails the need in some Member States to change their production systems by means of new investment expenditure, the removal of technical obstacles to trade used to be the subject of discussions. Sometimes member country tried to persuade its partners that its own technical regulations were the best and should be adopted.

• The laborious procedures involved in the approximation of laws leads to results which are very useful from economical point of view. Once the standards or technical requirement stipulated by the legislation are the same in all member countries, approval of a product granted in any member country is recognized by all the others.
Benefits

- Products which do not conform may not be sold anywhere in the common market, including the producer's home market. Conversely, no Member State may apply more strict national rules to oppose the import or use of products which meet EU requirements.
- The harmonization of legislations is also very useful for consumers, since it guarantees them the quality and safety of products.

Harmonization aims to:

- create consistency of laws, regulations, standards and practices, so that the same rules will apply to businesses that operate in more than one member state, and so that the businesses of one State do not obtain an economic advantage over those in another as a result of different rules.
- reduced regulatory burdens for businesses operating nationally or internationally
Challenges

- The European Union is also a community of Law.
- The European Union is not focused on the creation of one European Law in contrast to the Laws of its Member States. The European union focuses on the harmonization of the national legal system only to the extent that is required for the functioning of the common market.

- Harmonization of law is the process of creating common standards across the internal market. EU member states have the primary responsibility for the regulation of most matters within their jurisdiction and consequently each has its own laws.
Challenges

• By the definition, unlike unification which contemplates the substitution of two or more legal systems with one single system, harmonization of law seeks to incorporate different legal systems under a basic framework by eliminating major differences and creating minimum requirements or standards.

• EU directives are a form of EU legislation which contains deadlines for the implementation ("transposition") of the rights and obligations in the directive into the law of the Member States. Implementation into the law of the Member States fulfils the purpose of ensuring the full availability of those rights and obligations to citizens and enterprises.

• If a Member State fails to transpose the Directive in a timely manner or fails to do it at all, the Directive will take ‘direct effect’. Individuals are able to derive rights from that Directive directly.
The Republic of Serbia
EU accession

- Potential candidate for EU membership since 2003
- Stabilization and Association Agreements signed on 29 April 2008. Came in to force in September 2013
- Application for EU membership: 22 December 2009
- Candidate country since March 2013
- Negotiation process has started: 21 January 2014
General considerations and policy

Goals and benchmarks in agricultural and food sector in the Republic of Serbia:

- Protection of consumers health
- Control of transboundary and zoonotic diseases
- Improvement of animal health and welfare
- Enough food for population - food security
- Rural development and protection of the environment
- Access on EU market
- WTO - Access on the new markets and creating opportunities for the export of food is one of the basic program orientation of the Government of the Republic of Serbia (SPS - Sanitary and Phytosanitary Agreement).
- EU membership (harmonization & EU acquis)
Chapters of the acquis/ negotiating chapters

- **Chapter 11: Agriculture and rural development.** Covers a large number of binding rules. Application of these rules, enforcement and control by public administration are essential for the functioning of the common agricultural policy (CAP). Running the CAP requires the setting up of management and quality systems such as a paying agency and the integrated administration and control system (IACS), and the capacity to implement rural development measures: farm support, subsidies etc.

- **Chapter 12. Food safety, veterinary and phytosanitary policy.** The general food policy sets hygiene rules for foods production. The acquis provides detailed rules in the veterinary field, which are essential for safeguarding animal health, animal welfare and safety of food of animal origin in the internal market. In the phytosanitary field, EU rules cover issues such as quality of seed, plant protection material, harmful organisms and animal nutrition.

- **Chapter 13: Fisheries.** Consists of regulations, which do not require transposition into national legislation. However, it requires the introduction of measures to prepare the administration and the operators for participation in the common fisheries policy, which covers market policy, resource and fleet management, inspection and control, structural actions and state aid control.
The Republic of Serbia: Competent Authorities in food safety area

- Ministry of Agriculture Forestry and water Management- risk management
- Ministry of Health- risk management
- Expert council for the risk assessment in the area of the food safety-contact point for risk assessment
  - Legal Base
- Law on veterinary matters (Veterinary framework act)
- Law on food safety (responsibilities, principals of risk assessment, risk communication and risk management)
- Law on animal welfare
- Secondary legislation: feed and food hygiene, zoonoses, animal by-products, residues and contaminants, microbiological criteria, control and eradication of animal diseases, labeling, pesticides, feed and food additives, vitamins, mineral salts, trace elements and other additives, materials in contact with food, quality and compositional requirements, drinking water, ionization, novel foods etc.
Food safety law

- Defines the principles of risk assessment (quantitative and qualitative)
- Separation between risk assessment, risk communication and risk management
- Stipulates the responsibilities and obligations of stakeholders, competent authorities and role of laboratories (role of reference laboratories, authorization and accreditation)
- Separation of responsibilities between different competent authorities to avoid overlapping, double controls of different competent authorities and unnecessary laboratory controls
- Legal base for official control

  International obligations derives from Food safety law

- The food safety control shall be executed in accordance with the recommendations of relevant international organizations and standards, the WTO SPS Agreement, international conventions and other relevant international agreements
- Information shall be exchanged with other national organizations responsible for food safety, RASFF, Codex Alimentarius, OIE, EC etc.
**Principle of risk analysis derives from Food safety law**

- The measures applied pursuant to this Law towards achieving a high level of protection of human health must be based on risk analysis: avoid unnecessary control, unnecessary frequent laboratory tests, take in to consideration positive experience and history of previous controls etc.

- Risk assessment shall be based on the available scientific evidence and especially based on the opinion of the Expert Council for Risk Assessment in Food Safety Area, in an independent, objective and transparent manner (SPS principles).

- Risk management shall be based on the results of risk assessment, precautionary principle and other factors of importance for the case being considered.
Distribution of responsibilities (Food safety law)

- For production of safe food: Food business operator

- For risk assessment and risk communication: Council for Risk Assessment in the Field of Food Safety

- For risk management: Responsible competent authorities (MAFWM, MoH)
Thank you for your attention!