

**Food Safety Regulation in Georgia:  
Assessment of the Government's Reform  
Efforts in 2014**

Tbilisi

2015

*This report was prepared by Eurasia Partnership Foundation (EPF), in the framework of the project Transparent Convergence to EU Policies in Sanitary Issues: the Case of Georgia and Moldova funded by the European Union (EU) and Swedish International Development Cooperation Agency (Sida). The views and opinions expressed in this report should in no way be taken to represent those of EU or Sida.*



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## 1. Introduction

This has been the fourth year that Eurasia Partnership Foundation (EPF) has conducted its annual assessment of state regulation of food safety in Georgia.<sup>1</sup> As in the three preceding reports, this fourth report covers, to the maximum extent possible, the performance of all key state agencies in the area of food safety. Special attention is paid to the performances of the Ministry of Agriculture and its subordinate entity the National Food Agency as they are the key organizations responsible for regulating food safety.

The report uses the term “food safety” in its broader sense, which covers issues such as animal health, plant protection, food counterfeiting and ways of misleading consumers, that is, all those spheres that directly or indirectly affect, or can affect consumer health, the production and delivery of safe food to the marketplace.

This report notes the achievements of public entities in this arena, but given the purpose of the report, it focuses on existing problems in order to ensure their timely detection and elimination.

### Data collection and analysis

In collecting data, EPF applied a combination of purposive sampling and so-called “snowball” sampling methods. Although a purposive sample is not representative of the population, this method fits well with the aim to study a relatively small group. This sampling technique enables the researcher to select each individual on purpose, often taking into account his/her unique position or knowledge.

In selecting the respondents (the target group), EPF applied Rubin’s criteria:<sup>2</sup>

1. Respondents must possess information about a subject of study or specific circumstances;
2. Respondents must be willing to speak about these topics; and
3. Respondents must reflect the diversity of opinions on the given topic.

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<sup>1</sup> See Ketevan Dadiani, Rezo Kobakhidze, “Food Safety Regulation in Georgia: Assessment of the Government's Reform Efforts in 2012,” Tbilisi, 2013, pp. 4-6, [http://www.epfound.ge/files/report\\_geo\\_final\\_1.pdf](http://www.epfound.ge/files/report_geo_final_1.pdf) and Ketevan Dadiani, Rezo Kobakhidze, “Food Safety Regulation in Georgia: Assessment of the Government's Reform Efforts in 2012,” Tbilisi, 2015, p. 9, [http://www.epfound.ge/files/report\\_12.1.1.pdf](http://www.epfound.ge/files/report_12.1.1.pdf); Nino Chokheli, “Sanitary and Phytosanitary Measures, Implementation of European Neighbourhood Policy Action Plan in Trade and Trade-Related Areas in 2010,” Tbilisi, 2011, pp. 48-71, [http://www.epfound.ge/files/report\\_final-enp-epf\\_03.15.11\\_3.pdf](http://www.epfound.ge/files/report_final-enp-epf_03.15.11_3.pdf).

<sup>2</sup> Herbert Rubin and Irene S. Rubin, *Qualitative Interviewing: The Art of Hearing Data*, Thousand Oaks, CA: Sage, 1995, p. 66.

Although purposive sampling was the key method employed in the study, EPF also applied snowball sampling which enabled the inclusion of additional respondents who had valuable information for the study to the selected target group.

During the preparation of the report, information was collected from various groups and from different geographical areas, namely, representatives of public entities<sup>3</sup> as well as members of civil society and the business community that are directly affected by the activities of these relevant public entities. Yet another important source of information was comprised of foreign experts working in Georgia and representatives of donor organizations operating in the country as their vision of the existing situation largely relies on the experience of developed countries.

In-depth interviews were conducted with 35 respondents (from Tbilisi, Gori, Kutaisi and Batumi). Moreover, the following focus-groups were held:

- Entrepreneurs who have been inspected (two groups each in Tbilisi and Kutaisi, involving six persons each);
- Specialists (in Tbilisi, seven persons);
- Representatives of private labs (in Tbilisi, six persons);
- Consumers having faced problems with regard to food consumption (two groups each in Tbilisi and Kutaisi, 7-10 persons);
- Ordinary consumers (a control group in Tbilisi, seven persons).

Each group of respondents was questioned about three main topics: the achievements of public entities, existing problems, and recommendations for overcoming those problems. However, the concrete questions put to respondents varied according to their respective activities.

The preparation of this report involved the study of basic normative acts regulating food safety; reports drafted by state entities and independent experts; the findings of sociological surveys, and; information requested from public entities regarding their activities. EPF analyzed the collected information and incorporated that basic data in the report, which would allow the performance of public entities to be assessed and which was supported by sufficient evidence. The Caucasus Research Resources Center provided assistance to EPF in organizing and conducting focus groups and interviews. With regard to the content of the report, EPF consulted Ketevan Dadiani, PhD of medical sciences, Associate Professor at I. Javakhishvili Tbilisi State University, Deputy Director of the G. Natadze Scientific-Research

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<sup>3</sup> The Revenue Service and the Investigative Service, two entities subordinated to the Finance Ministry and falling within the food market regulation system, refused to cooperate with the Eurasia Partnership Foundation within the framework of this study.

Institute of Sanitary, Hygiene and Medical Ecology, and Rezo Kobakhidze, the Director of G. Natadze Scientific-Research Institute of Sanitary, Hygiene and Medical Ecology.

### **Assessment context**

Until 2005, food safety regulation rested primarily on the principles inherited from Soviet times, which restricted entrepreneurs through the employment of highly detailed standards and favored product inspection and certification. Consequently, a complex but inefficient network of controlling bodies and labs was in place and the inspections conducted within this network were of a formal nature and a source of corruption. Hence, consumers lacked any true protection against food-related threats while simultaneously entrepreneurs were burdened by extremely detailed standards. On 27 December 2005, the parliament of Georgia adopted the Law on Food Safety and Quality which fundamentally changed the principles of regulation and the institutional arrangement of the food safety sphere. “The Law reflected the main approaches of EU legislation, namely, risk-based food safety control and an integrated control system shifting the focus from the certification of the final product onto the entire food production chain (the so-called “from stable to table” approach). In parallel, a fundamental institutional reform was implemented which resulted in consolidating functions scattered among various state entities and often overlapping, into one entity – the National Service for Food Safety, Veterinary and Plant Protection.”<sup>4</sup>

However, the policy implemented over the period of 2005 to 2012, which pursued the aim of deregulation in all spheres, negatively affected food safety regulation. In fact, during the initial period, starting from 2005, Georgia refused to implement any policy in this sphere. “The enforcement of the law has been repeatedly postponed (in December 2006, June 2007 and December 2009). The legal clauses that represented the mechanism of enforcement of the law, namely, provisions regulating state inspections, were suspended during this period. The requirements to introduce the Hazard Analysis and Critical Control Points (HACCP) system were also postponed.”<sup>5</sup> In fact, state system of animal health and plant protection became fully dysfunctional.

The state regulation of food safety was put on the agenda again only after the prospects of signing the Association Agreement with the European Union were outlined because one of the prerequisites of this agreement was having the field of food safety put to rights. In July

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<sup>4</sup> Nino Chokheli, “Sanitary and Phytosanitary Measures, Implementation of European Neighbourhood Policy Action Plan in Trade and Trade-Related Areas in 2010,” Tbilisi, 2011, p. 49, [http://www.epfound.ge/files/report\\_final-enp-epf\\_03.15.11\\_3.pdf](http://www.epfound.ge/files/report_final-enp-epf_03.15.11_3.pdf).

<sup>5</sup> Nino Chokheli, “Sanitary and Phytosanitary Measures, Implementation of European Neighbourhood Policy Action Plan in Trade and Trade-Related Areas in 2010,” Tbilisi, 2011, p. 49, [http://www.epfound.ge/files/report\\_final-enp-epf\\_03.15.11\\_3.pdf](http://www.epfound.ge/files/report_final-enp-epf_03.15.11_3.pdf).

2010, state control was partially enforced for enterprises exporting their food products to the EU. The suspended legal clauses did not fully enter into force until January 2011.

Until 2013, however, the activities of the National Service for Food Safety, Veterinary and Plant Protection (later renamed the National Food Agency) were modest. The revision of the legislation regulating the field was also in progress though at a very slow pace. Thus, food safety reform remained largely of a formal nature.

It was not until 2013 that the situation started to improve significantly. The past two years have seen an unprecedented increase in the activity of the Agency, including in the scales of control. A notable improvement has been observed in food safety legislation. Nevertheless, Georgia still has a long way to go until it establishes an efficient system for the state regulation of food safety as a number of fundamental problems are yet to be solved. In particular, there is no proper food safety-related risk assessment mechanism in place. Nor have those objects (for example, business operators, cattle) been fully identified which must be subject to safety control. And finally, the country still lacks an efficient system for detecting hotbeds of foodborne infections. It must be noted in this regard that the existing legislation, mostly exempts those farms from state control which are not registered as legal entities. Moreover, a preferential regime applies to business operators with an annual turnover of up to 200,000 GEL. Bearing in mind that the majority of entities engaged in food production/distribution are physical entities or small-size entrepreneurs, a large segment of Georgia's food market is left outside the state regulation system. The control of the practice of deceiving food consumers is conducted on a very small scale and the level of awareness among both food business operators and consumers is low. Georgia's labor market experiences a shortage of food safety specialists. Against this backdrop, it is no wonder that official statistics show an annual increase in foodborne diseases.

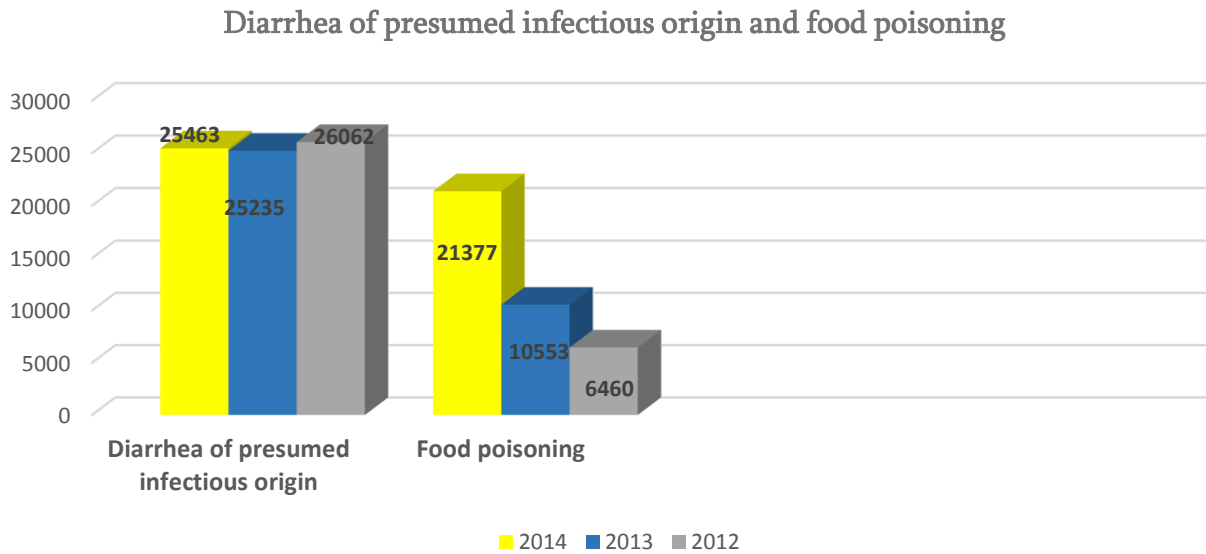
A more detailed overview of the above cited issues as well as other problems is provided in the main part of the report. The report also contains recommendations to the government of Georgia on possible ways to tackle these problems.

## **2. Foodborne Diseases**

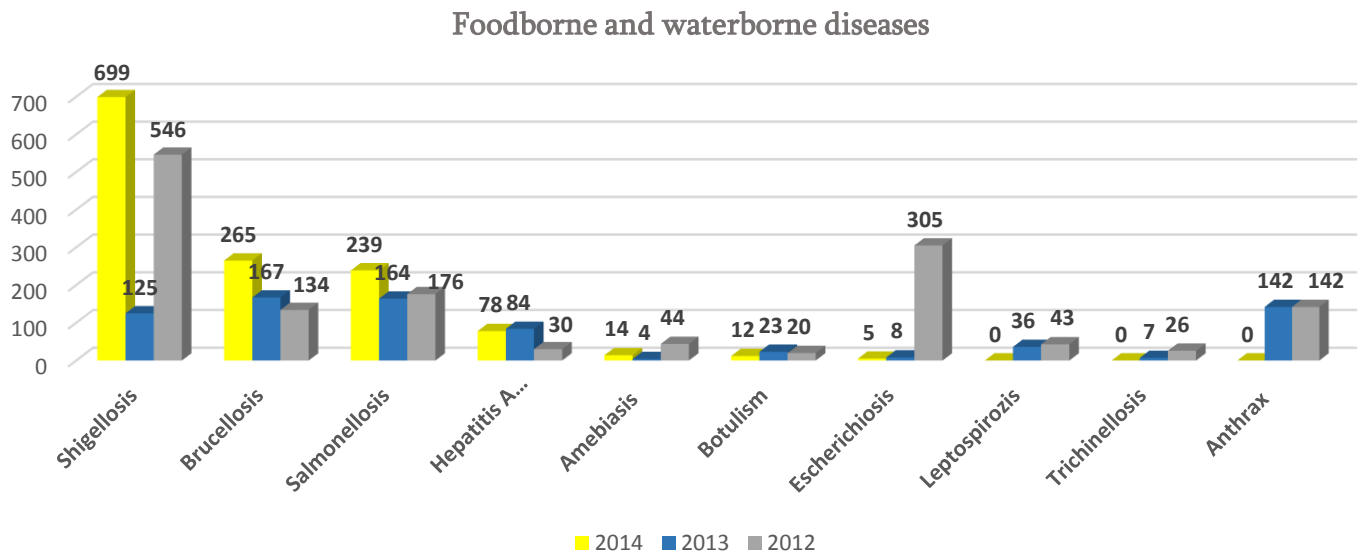
The key aim of food safety regulation is to protect consumers against foodborne diseases. The official statistics on people having suffered from foodborne (including waterborne) diseases over the period from 2012 to 2014, provide some interesting evidence which helps to evaluate the efficiency of the efforts of the Georgian government in this area. These statistics show an increase in almost half of the commonly spread diseases and a decrease in another half. The indicator of diarrhea of presumed infectious origin remains high. An upward trend is observed in presumed food poisoning, shigellosis, brucellosis and salmonellosis. There

were four cases with lethal outcomes in 2014, one case in 2013 and eight in 2012. Overall, the number of cases of illness has been increasing (See charts 1, 2 and 3).

**Chart 1**

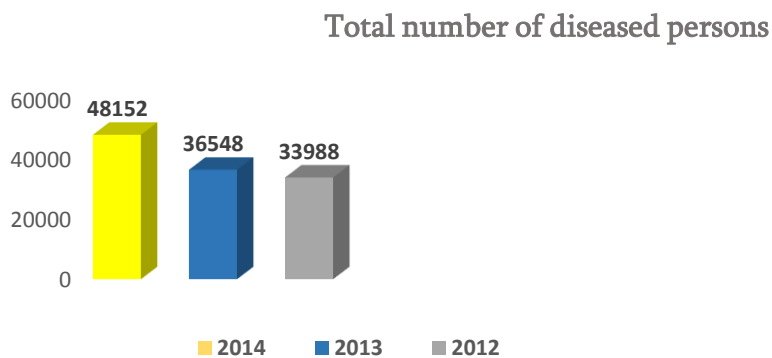


**Chart 2**





**Chart 3**



With regard to statistics it must be noted that individual cases (except for shigellosis and botulism) are diagnosed as food/waterborne diseases based on the information received from the patients. In the event of an outbreak (three or more cases/patients), the National Center for Disease Control and Public Health conducts epidemiological studies to determine the presumed source of infection and the presumed cause of transmission. It should also be taken into account that if people do not suffer from acute forms of diarrhea and/or poisoning, they usually do not consult doctors. Consequently, such cases of illness are left unregistered, providing yet another reason that the above-cited data fails to accurately reflect the true situation in the country. It should be noted that, for the same reason, only 10% of similar diseases are reflected in the statistical data of developed countries.<sup>6</sup> Moreover, the statistical data does not reflect foodborne diseases, the results of which are revealed over time making it difficult to link them to a particular food.

One should also note that this increase in disease may be caused by improvements in the availability of medical services and registration. It is a fact, however, that the number of cases remains quite high, thereby indicating the necessity to improve food safety regulation.

### **3. Legislation and State Policy**

Because of the reformation of Georgian legislation regulating food safety and the development of state policy, a process that was largely encouraged by the signing of the EU-Georgia Association Agreement, 2014 was a significant year. The main law regulating food safety – the Code of Food/Feed Safety, Veterinary and Plant Protection – was improved; and

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<sup>6</sup> See, Ketevan Dadiani, Rezo Kobakhidze, “Food Safety Regulation in Georgia: Assessment of the Government's Reform Efforts in 2012,” Tbilisi, 2013, p. 40, [http://www.epfound.ge/files/report\\_geo\\_final\\_1.pdf](http://www.epfound.ge/files/report_geo_final_1.pdf).

the National Food Agency enhanced its activities and its scale of control. At the same time, serious factors such as the shortage of qualified personnel and the low level of awareness of food safety issues among entrepreneurs and consumers continue to impede the activities in this sphere.

### **3.1 Approximation of Georgian legislation with EU legislation**

A significant incentive for the development of food safety regulation was the signing of the EU-Georgia Association Agreement in 2014. However, in as early as 2010, the government of Georgia adopted the Comprehensive Strategy and Legislative Approximation Program in Food Safety containing those legislative activities which were expected to bring the Georgian legislation closer to EU standards. The initial program and action plan was prepared for the period covering 2010-2014. However, by the end of 2013 it had become clear that a significant lag in the planned activities had developed, therefore the Georgian government, in 2014, revised the schedule and extended the deadline for the program's implementation to 2020. Regarding the scheduled implementation of the activities planned for 2014, the Ministry of Agriculture provided this information in such a format that makes it difficult to figure out whether the 2014 plan was fulfilled.

After the 2014 signing of EU-Georgia Association Agreement, the government of Georgia started to work on the development of new legislative approximation programs in the spheres of food safety, animal health and plant protection, which cover years from 2015 to 2030 and envisage the approximation of Georgian legislation with 375 of the normative acts of the European Union. After the adoption of these programs the need will yet again emerge to revise the Comprehensive Strategy and Legislative Approximation Program in Food Safety, though the 2014 revisions took quite a long time.

2014 was also a significant year in the work conducted to draft the technical regulation on "Milk and Dairy Products," which the Agriculture Ministry launched in 2013 thanks to a civil petition initiated by the Center for Strategic Research and Development of Georgia, a civil society organization. In that petition, citizens demanded the adoption of a law prohibiting the sale of foods which are labelled as "dairy products" even though their essential ingredients (including fat and protein) are not produced from animal milk but from other raw materials.<sup>7</sup> The technical regulation was drafted with the involvement of civil and private sector representatives, but it was not able to be adopted in 2014.

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<sup>7</sup> <http://www.momxmarebeli.ge/?menu=141&rec=4425>

### 3.2 Code of Food/Feed Safety, Veterinary and Plant Protection

Amendments introduced to the Code of Food/Feed Safety, Veterinary and Plant Protection (hereinafter “Code”) are especially worthy of note as these have significantly improved the fundamentals of the state control and the cooperation between public entities and consumers. With these amendments the Code was brought closer to corresponding EU regulations. It must be noted that the drafting of these legislative changes started in late 2012 with the involvement of civil society organizations interested in this issue. All in all, some 14 recommendations from Eurasia Partnership Foundation and its partner organizations were accommodated in the amendments adopted in April, 2014. At the same time, a number of recommendations drawn up by civil society organizations (CSO) were not taken into account.

For example, according to the Code, the state control mostly does not apply to physical persons until 2020.<sup>8</sup> According to explanations provided by government representatives the National Food Agency (NFA) will be unable to expand its control in the coming years in such a way as to also cover physical persons. Although partially agreeing with the argument of the state, civil sector representatives still believe that the difficulty in implementing the requirement must not be the only reason for taking such a decision especially considering that a number of other Code requirements are also quite difficult to implement. The full, even formal application of state control to this large segment of food business operators will facilitate the establishment of better practices in the production and sale of food products and will enable consumers to better protect their rights.

The state also did not take into account a CSO recommendation in which they advised that small-size businesses be provided with a specific status in the Code of Food/Feed Safety, Veterinary and Plant Protection in accordance with Clause 88 of the Tax Code and to apply the benefits to those enterprises alone which have an annual turnover of up to 100,000 GEL. Under the current wording of the law, benefits are extended to small-size enterprises with an annual turnover of up to 200,000 GEL.<sup>9</sup> This gives rise to a legislative inconsistency, on the one hand, and significantly undermines the protection of consumers on the other hand, because quite a large number of enterprises are eligible for these benefits leaving a large segment of Georgia’s food market left beyond the state control. The above cited two clauses seriously question the provision of food safety in the foreseeable future.

According to the Code, the responsibility for the conduct of state control in the sphere of food/feed, veterinary and plant protection is distributed between two different entities: the

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<sup>8</sup> Paragraph 4, Clause 76 of the Law of Georgia ‘Code of Food/Feed Safety, Veterinary and Plant Protection.

<sup>9</sup> Paragraph Y, Clause 2 of the Law of Georgia ‘Code of Food/Feed Safety, Veterinary and Plant Protection’.

National Food Agency (NFA) and the Revenue Service (at customs borders).<sup>10</sup> The best international practice shows that it is preferable to entrust the responsibility for ensuring food safety to one entity alone, in this particular case the National Food Agency. Such a change would have contributed to the coordinated and consistent conduct of state control and its increased efficiency. It should be noted that the draft amendments, prepared by the Agriculture Ministry, envisaged the NFA as the only entity responsible for state control, but the Finance Ministry offered serious resistance to this particular amendment and it was neglected. Representatives of CSOs find it difficult to understand the motive of the Finance Ministry, which is already burdened with excess obligations, for maintaining the responsibility for controlling this sphere.

Yet another CSO recommendation concerns the assessment that the fines envisaged in the Code <sup>11</sup> are largely inadequate. On the one hand, a violator may find it much cheaper to pay fines than to observe the requirements of the law because the amounts of fines do not, as a rule, take into account the scale of the given violation or the financial standing of the violator. On the other hand, equal fines imposed on both small- and large-scale enterprises for identical violations is a disproportional sanction and favors larger enterprises to the detriment of small-scale enterprises, rendering them much less competitive.

### **3.3 Human Resources**

One of the serious factors impeding the successful reformation of food safety regulation is the shortage of qualified personnel. This problem is seen in both the public and private sectors. Even those entities with large enough budget allocations to attract additional personnel find that there is a severe lack of locally qualified people. Other problematic aspects of this issue include: How favorable are the conditions offered to qualified people available on the labor market? How big is the outflow of experienced personnel? And how sufficient are the budget allocations made to public entities to ensure the attraction of the needed number of qualified cadres? This latter issue was clearly seen in every public entity.

The outflow of personnel was not identified as a problem by respondents in the process of assessment; however, bearing in mind that many donors invest substantial resources in the upgrade of qualifications for employees of the Agriculture Ministry, NFA and other public entities, the Eurasia Partnership Foundation, in its future assessments, will pay special attention to the issue of personnel outflow in order to evaluate how the retrained personnel are maintained.

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<sup>10</sup> Paragraph O, Clause 19 of the Law of Georgia ‘Code of Food/Feed Safety, Veterinary and Plant Protection’.

<sup>11</sup> Fines set by the Code range between 100 and 1,200 GEL; Chapter XV, the Law of Georgia ‘Code of Food/Feed Safety, Veterinary and Plant Protection’.

The shortage of qualified cadres is a deep rooted problem. It is not characteristic for this sector alone and there is no quick-fix solution. This issue does not fall within the remit of this report, but it must be noted that the state bodies need to undertake consistent and coordinated efforts to overcome this problem.

### **3.4 Awareness of Entrepreneurs and Consumers**

An important challenge to the state and society is the level of awareness of food safety issues among both entrepreneurs and consumers. Reforms cannot be successful if, on the one hand, entrepreneurs make no efforts to ensure food safety in their activities and, on the other hand, if consumers fail to properly understand the actual risks related to food safety and do not protect their rights. According to our observations, the level of awareness of food safety among these two groups is quite low.

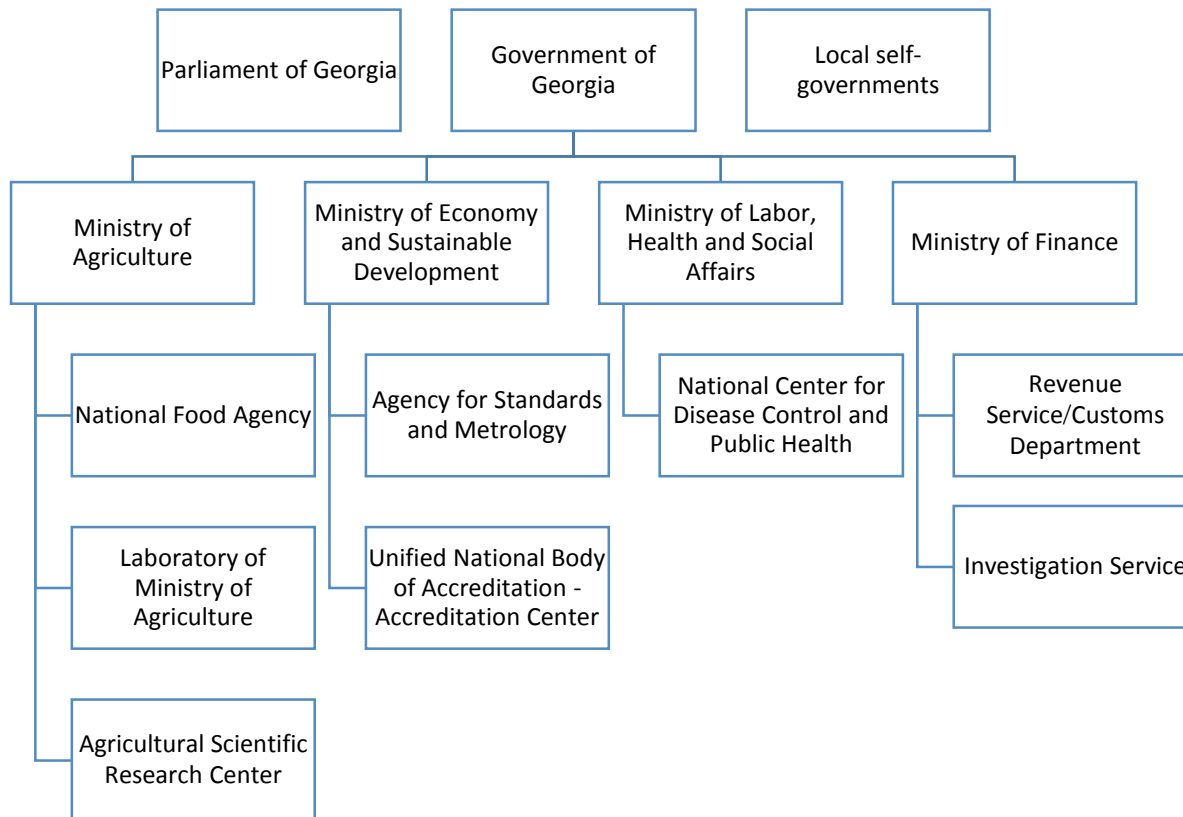
Various programs to support entrepreneurship, which are funded both from the state budget of Georgia and by foreign donors, are being implemented in Georgia. These programs involve food safety issues too, including the education of entrepreneurs and the provision of support in various ways to prepare them for new requirements in food safety. It is difficult to say whether or not these programs are sufficient, and although this is a topic of separate study it is a fact that much work must be done in this area.

Save for the CSOs activities in the area of raising consumer awareness, one cannot observe any other notable activity of the government in this direction regardless of the fact that, considering its scale, this problem will be very difficult to overcome without relevant state policy and serious efforts.

## **4. Key Entities Falling within the System of State Regulation of Food Safety**

The system of state regulation of food safety consists of a number of public entities performing different roles. These entities are shown in Figure 1. The overview of the 2014 activities of each of these entities in the area of food safety is provided below.

Figure 1.



#### 4.1 Parliament of Georgia

Issues concerning the reformation of the food safety sphere and, in general, food market regulation, fall within the competence of the Agrarian Issues Committee of the parliament of Georgia. The most important activity of the Committee in this regard was the adoption of the Code of Food/Feed Safety, Veterinary and Plant Protection (see the detailed overview above). Interested CSOs and entrepreneurs were regularly invited to participate in the considerations of the Code and a number of recommendations submitted by EPF and its partner organizations were accommodated in the Code's final wording. The Committee also held several hearings of Agriculture Ministry and NFA activities in the area of food safety regulation, to which private sector and nongovernmental organization representatives were invited. Irrespective of this positive assessment, the Committee needs to step up its activity, in particular, its law making activity instead of waiting for legislative initiatives from the Agriculture Ministry. In addition to political will, this requires further enhancement of the competence of committee members and its office staff in the area of food safety.

The Agrarian Issues Committee, of course, does not work in vacuum and the successful implementation of the food safety reform requires parliamentary support. However, it must

be noted that in certain cases parliamentary support results in the complication of the regulation, therewith further aggravating the situation faced by business operators and consumers. For example, in 2014, upon the initiative of Georgian Dream – Entrepreneurs parliamentary faction, parliament adopted the law on Labelling Genetically Modified Organisms Used in Food/Feed and Genetically Modified Food Produced Therefrom, giving rise to an obligation to label genetically modified organisms used in food/feed and products when they are imported and not only when placed on the Georgian market. The law also stipulated the labeling rules and specified an administrative liability for the violation of the requirements of the law.<sup>12</sup> The legislature found it difficult to justify the need for a separate law when an identical result could have been achieved by corresponding amendments to the already existing normative acts, namely, the Code of Food/Feed Safety, Veterinary and Plant Protection and the technical regulation on Additional Requirements for Labelling Food Products, especially considering that the Food Code regulates a great many issues of which genetically modified organisms and products is only one.<sup>13</sup> Yet another interesting circumstance is that the draft law on labelling genetically modified organisms and products was initiated within one month (in May 2014) of amending the Food Code and the Agrarian Issues Committee refused to support it at its first committee hearing.<sup>14</sup> However, the majority of parliament members disregarded the committee’s opinion.

The reformation of the food safety sphere is a very complex and labor-consuming activity and the country’s legislature must ensure that the normative materials it drafts are easily available, predictable and clear to the maximum possible extent to both controlling bodies and business operators. Scattering changes around multiple normative acts will make it difficult for interested persons to find information about changes and implement them in practice.

One should also note the inconsistent approach demonstrated by the parliament in determining the administrative liability in the Law on Labelling Genetically Modified Organisms Used in Food/Feed and Genetically Modified Food Produced Therefrom. Pursuant to this law, a breach of labeling rules is punishable by a 5,000 GEL fine whilst the fine for

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<sup>12</sup> Until the adoption of this law, the requirement to label genetically modified food products applied to the products placed on the Georgian market (see, technical regulation on Additional Requirements for Labelling Food Products).

<sup>13</sup> To a question asked during the assessment as to why there was a need to adopt a separate law on labelling genetically modified food products, initiators of the draft law made the reference to requirements of EU legislation, however, they failed to point out such concrete requirements because, in reality, there is no such requirement at all.

<sup>14</sup> Minutes #15 of a session of Agrarian Issues Committee of the Parliament of Georgia, 31 July 2014, 11:00 a.m., <http://parliament.ge/ge/saparlamento-saqmianoba/komitetebi/agrarul-sakitxta-komiteti/sxdomis-oqmebi/sxdomis-oqmi-n15-agraruli.page>

repeated violations is 10,000 GEL.<sup>15</sup> According to the Food Code, however, any breach of food product labelling rules envisages a fine of 400 GEL and if the breach is repeated within a period of one year the fine increases to 1,200 GEL.<sup>16</sup> Moreover, the maximum amount of fines envisaged by the Code does not exceed 2,000 GEL. Such an inconsistency could have probably been avoided had relevant amendments been made to the Food Code.

## 4.2 Finance Ministry of Georgia

Two entities of the Finance Ministry – the Revenue Service and the Investigation Service – are engaged in the system of food market regulation.

The legal entity of public law (LEPL), the Revenue Service, performs state control in the spheres of food/feed safety, animal health and plant protection when goods are moved across the customs border of Georgia.<sup>17</sup> During the assessment the efficiency of organizing food safety border control by the Revenue Service was questioned. It was noted that relevant personnel is not sufficiently tasked. Were the NFA responsible for the border control, it could load specialists working at customs checkpoints with other tasks and thus, use their full capacity.

An attempt to gain a deeper insight into this issues and to better study the activity of the Revenue Service during the assessment period and in general, failed because representatives of the Revenue Service refused to be interviewed. Nor was the 2014 performance report of Revenue Service published on its website as of 31 March 2015. Moreover, the Revenue Service does not disclose the names of those business providers whose imported products had been found faulty, referring to the Georgian Tax Code<sup>18</sup>.

The Investigation Service is a special law enforcement unit with the status of state sub-entity within the structure of the Finance Ministry of Georgia. The main function of the entity is to combat crime in the financial and economic sphere,<sup>19</sup> including food counterfeiting or any other type of consumer deception. This entity, given its organizational culture, proved very difficult to assess: the information available on their website is scarce, and representatives of this service refused to be interviewed in person, whilst most of the questions sent to them in writing were left unanswered. According to the information provided in writing by the Investigation Service investigations were initiated into 11 criminal wrongdoings. The types of counterfeited food products under investigation were also mentioned.

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<sup>15</sup> Paragraphs 3-4, Article 10, the Law of Georgia on Labelling Genetically Modified Organisms Used in Food/Feed and Genetically Modified Food Produced Therefrom.

<sup>16</sup> Article 74<sup>1</sup>, the Law of Georgia ‘Code of Food/Feed Safety, Veterinary and Plant Protection’.

<sup>17</sup> Paragraph 2, Article 19, the Law of Georgia ‘Code of Food/Feed Safety, Veterinary and Plant Protection’.

<sup>18</sup> Article 39, the Law of Georgia ‘Georgian Tax Code’.

<sup>19</sup> Paragraph 1, Article 2, the law of Georgia on Investigation Service of Ministry of Finance.



EPF believes that the status of a particular law enforcement body cannot serve as justification for such a lack of openness, especially considering that the information provided about the 2014 performance of the Investigation Service is not at all impressive. Therefore, it is hard to say how effective the Investigation Service is in its fight against food counterfeiting. One may wonder why the violations detected by the service do not include such types of consumer deception as cheating in weights, prices, et cetera. Furthermore, the ability of the entity to efficiently detect consumer rights violations without intensive communication with consumers and to expose offenders without any bias raises serious doubts.

As public entities, the Revenue Service and the Investigation Service are obligated to practice transparency and accountability vis-à-vis the society they serve—an obligation which they fail to properly fulfill. Bearing in mind that, according to public law, these two are legal entities within the structure of the Finance Ministry, and therefore the Ministry is obliged to oversee and control their activities and eliminate any shortcomings. The moral responsibility of the Finance Ministry regarding food safety issues is even higher as, at the insistence of the Finance Ministry, the food safety control at the customs border has been maintained by the Revenue Service.

### **4.3 Ministry of Economy and Sustainable Development of Georgia**

Two entities within the Ministry of Economy and Sustainable Development, the Agency for Standards and Metrology, and the Unified National Body of Accreditation - the Accreditation Center, are engaged in the system of food market regulation.

The Agency for Standards and Metrology (hereinafter, the Agency) is the legal entity of public law which was established to organize and implement activities within the sphere of standards and metrology.<sup>20</sup> Its consulting bodies -- technical committees<sup>21</sup> draw up draft Georgian standards and/or draw up proposals and recommendations for Georgian standards to be drafted and/or submitted for approval. Draft Georgian standards are approved by the Agency. When standards developed in Georgia are approved, decisions to enforce them are taken by the government of Georgia.<sup>22</sup> The committees also consider the Georgian translations of international or regional standards submitted by the Agency.<sup>23</sup>

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<sup>20</sup> Article 29; paragraph D, Article 65, the Law of Georgia 'Product Safety and Free Movement Code'.

<sup>21</sup> The activity of the committees is regulated by the Law of Georgia 'Product Safety and Free Movement Code', and the decree #1-1/1740 of the Minister of Economy and Sustainable Development on the "Approval of Procedure to Establish Technical Committee of Standardization and the Rule of Its Operation," 10 September 2012.

<sup>22</sup> Paragraph 4, Article 68, the Law of Georgia 'Product Safety and Free Movement Code'.

<sup>23</sup> Article 2, the decree #1-1/1740 of the Minister of Economy and Sustainable Development on the "Approval of Procedure to Establish Technical Committee of Standardization and the Rule of Its Operation," 10 September

One of the Agency's consulting bodies, "Technical Committee 3" (TC 3) is engaged in the food product sphere. In 2014, it was comprised of various state entities, representatives of private and civil sectors and specialists. Upon the recommendation of the Committee, the Agency translated five food-related international standards into Georgian and submitted them to the Committee for consideration. Moreover, IDS Borjomi Georgia commissioned the development of standard of Likani natural mineral water to the Agency, which was then considered by TC 3. Final decisions about the above-mentioned issues were not taken in 2014.

Among other activities of the Agency worth mentioning is the acknowledgment of the quality management system ISO/IEC 17025 in the agency by regional metrology organization (COOMET). Also, the calibration and measurement certificates issued by the Institute of Metrology of the Agency were internationally recognized by the International Bureau of Weights and Measures (BIPM). For detailed information about the activity of the Agency in the 2014, see the annual report at <http://www.geostm.ge/cms-images/final.compressed.pdf>.

The establishment of technical committees for considering standards is still a novelty for Georgia. TC 3 was created in 2013 and a consensus regarding the approaches of its activities is yet to be achieved among its members.<sup>24</sup>

The fact that not all members can be expected to be competent in every food-related issue raises the need for thematic specialization. Two working groups have already been set up within the technical committee, though the need for further specialization remains pressing. Conflicts of interest are also observed in the committee. In particular, the Agency not only coordinates the committee's activity but its representative is also a member of this committee. Moreover, other Agency representatives were involved in committee discussions, including in those discussions in which the committee considered the draft standard which the Agency drew up for a private company in exchange for remuneration. Finally, another one of the factors impeding the development and improvement of the committee's effectiveness is the motivation and initiative of its members. To overcome this obstacle, it would be beneficial to enhance the knowledge of committee members regarding international practice in standardization and to refresh the composition of the committee.

The legal entity in public law, the Unified National Body of Accreditation - the Accreditation Center, is engaged in the accreditation of conformity evaluators on the territory of Georgia,<sup>25</sup> including laboratories for conducting food-related tests. There were up

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2012; internationally recognized standards are recognized in Georgia and does not need additional confirmation. See, paragraph 1, Article 3, Product Safety and Free Movement Code.

<sup>24</sup> For example, the activity in the committee is not remunerated. However, a segment of its members question the wisdom of this approach.

<sup>25</sup> Article 96 (1), the Law of Georgia 'Product Safety and Free Movement Code'.

to 20 such labs in 2014. Especially worth mentioning among the 2014 activities performed by the Accreditation Center is the application it made for bilateral agreement with the European Co-operation for Accreditation (EA). This is a significant step towards the international recognition of the Accreditation Center which, at the end of the day, would mean the recognition of the equivalence of the Georgian accreditation system by EA members. However, before a bilateral agreement can be reached, EA must evaluate the Georgian accreditation system and, based on this evaluation, take a decision. This requires that the Accreditation Center improve its procedures and management system in accordance with international standards. This process is important, primarily for ensuring the accuracy of those tests performed by the accredited labs, which is one of main guarantees of the delivery of safe food products to consumers. Consequently, it is important for the Accreditation Center to bring its activity and its requirements to labs in line with international standards in the shortest possible time.<sup>26</sup>

#### **4.4 The Ministry of Labor, Health and Social Affairs of Georgia**

The Ministry of Labor, Health and Social Affairs has an important role in the food market regulation system. It is involved in developing and implementing state policy in this sphere. In this regard, the Ministry has two key obligations: (1) to renew the sanitary-hygienic normative framework and; (2) to implement the monitoring, research and control of foodborne diseases.<sup>27</sup>

One of key challenges faced by the Ministry is the renewal of an extremely outdated sanitary-hygienic normative framework. No significant progress was observed in this area in 2013. In January 2014, a working group was set up in the Ministry to work on the renewal of the sanitary-hygienic normative framework. The group studied the existing situation and identified priorities. One of the results of the activity of this working group is the “2014-2017 Action Plan for Ensuring the Development/Revision of Draft Regulatory Acts and Draft Documents Determining Politics in Public Health Sphere” which was drawn up within the framework of EU-Georgia Association Agreement. The plan consists of 86 documents in total with many of these related to food safety. According to this plan, in 2014 the Ministry worked on seven food-related normative acts, but succeeded in adopting only four. These acts regulate water bottling, sanitation rules for catering at preschool educational institutions, sanitary-hygienic norms for food containers, and others. Unfortunately, the

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<sup>26</sup> More information about the Accreditation Center is available on its website [www.gac.gov.ge](http://www.gac.gov.ge).

<sup>27</sup> This function is performed by the National Center for Disease Control and Public Health, the legal entity in public law falling within the structure of Ministry. Article 21, Law of Georgia ‘Code on Food/Feed, Veterinary and Plant Protection’.

normative acts that concern such crucial issues as the use of food additives and food safety norms remain unrevised.<sup>28</sup>

A serious impediment to revising and drafting normative acts is the fact that the Ministry has only one freelance employee working on these issues who, apart from food-related issues, also has other tasks to perform. Although the working group set up for the revision of the sanitary-hygienic normative framework consists of 13 members,<sup>29</sup> the revision of the normative framework is not actually the core activity of these individuals. Consequently, it is difficult to say whether this group will succeed in handling the large amount of work required to revise/draw up the normative framework. The fact remains that no breakthrough has been observed in this direction in 2014. The Ministry must assign more human resources for the fulfillment of its obligations in the food safety sphere.

The key function of the National Center for Disease Control and Public Health (hereinafter, the Center) in the area of food safety is the monitoring, research and control of foodborne diseases. The Center is also actively engaged in the renewal of the sanitary-hygienic normative framework. The Center maintains disease statistics which are important for the evaluation of food-related risks, the reformation and efficiency of the state's food safety regulatory system. However, as noted above, the Center's statistics are not accurate and cannot be used for envisaging real disease-related risks in the organization of the state regulatory system and, among other in the planning of the state control. In such a setting, talk of the efficiency of food safety regulation is futile. This may easily be the reason behind the observed annual increase in foodborne diseases.

Hence, it is necessary for the Ministry of Labor, Health and Public Affairs to find ways of obtaining more accurate data. It would be ideal to conduct an epidemiological study of each and every individual case. However, at least, it should be possible to conduct smaller-scale, targeted studies in order to obtain a clearer picture of these diseases. Based on the information received during the assessment, the Center has already begun work in this direction and it is highly desirable to accelerate the Center's development from this angle.

Moreover, the cooperation between the Center and the NFA is in need of a qualitative change in order to make it more intensive and systemic. This will contribute to the

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<sup>28</sup> This problem was discussed in the reports of previous years prepared at the initiative of Eurasia Partnership Foundation. See, Ketevan Dadiani, Rezo Kobakhidze, "Food Safety Regulation in Georgia: Assessment of the Government's Reform Efforts in 2012," Tbilisi, 2013, pp. 4-6, [http://www.epfound.ge/files/report\\_geo\\_final\\_1.pdf](http://www.epfound.ge/files/report_geo_final_1.pdf) and Ketevan Dadiani, Rezo Kobakhidze, "Food Safety Regulation in Georgia: Assessment of the Government's Reform Efforts in 2013," Tbilisi, 2014, p. 9, [http://www.epfound.ge/files/report\\_12.1.1.pdf](http://www.epfound.ge/files/report_12.1.1.pdf),

<sup>29</sup> The working group is mainly manned by employees of the Ministry and the National Center for Disease Control and Public Health.

collection of accurate statistical data as well as to the implementation of a more effective strategy upon the detection of hotbeds of diseases. The problem, however, is that, in the event of an epidemic outburst, each entity acts independently. The exchange of information between the Center and the NFA takes place with such delays that it often becomes impossible to identify the source of the disease or to examine the affected people. This problem was also noted in the reports prepared at the initiative of the Eurasian Partnership Foundation in previous years, when experts indicated that “the National Center for Disease Control and Public Health takes independent decisions whether to attribute a concrete poisoning to a concrete food product. The same fact is also investigated by the National Food Agency independently and at its own discretion. These two entities, however, do not compare and analyze the data jointly.”<sup>30</sup> Hence, adequate measures are not taken for the prevention and elimination of disease. Based on the information provided by the Center to the NFA in 2014, the latter detected certain violations in a majority of cases and undertook respective measures. However, the NFA fails to name even a single case in which a source of infection was confirmed through laboratory research. Consequently, it is difficult to speak about the efficiency of measures undertaken by the NFA, even more so when the situation was identical in 2012 and 2013. It is necessary for the Center and the NFA to modify their respective approaches towards their activities at times of epidemic outburst and to start acting jointly.

The availability of reliably operating electronic databases is also one of necessary conditions for disease surveillance and eradication. The activity of the Center in this direction and the cooperation between the Center and the NFA are worth noting. For example, in recent years the NFA has expanded its reach into the Electronic Integrated Disease Surveillance System, run by the Center (the lab of Agriculture Ministry is also hooked up to this system). In 2014, some of the regional divisions of the NFA could already see and enter/process data in the system. However, the application of the system by regional divisions is associated with a number of difficulties such as the absence of qualified personnel, a poor understanding of the importance of the system, and the complexity of the system itself. Moreover, the system is mainly used for zoonotic and especially dangerous infections and there is a need for a thematic and geographic expansion of the system.

#### **4.5 Local Self-governments of Georgia**

The local self-governments’ role in food safety regulation is connected to their responsibilities for ensuring water supply, managing municipal kindergartens, and controlling outdoor trade. The issue of water supply is a highly complex problem and does not depend on self-governments alone and the inspection of kindergartens, like any other

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<sup>30</sup> Ketevan Dadiani, Rezo Kobakhidze, “Food Safety Regulation in Georgia: Assessment of the Government's Reform Efforts in 2012,” Tbilisi, 2013, pp. 44, [http://www.epfound.ge/files/report\\_geo\\_final\\_1.pdf](http://www.epfound.ge/files/report_geo_final_1.pdf)

business operator, is carried out by the NFA. Illegal outdoor trade, however, lies beyond the scope of NFA control and therefore the main responsibility for overseeing this sphere rests with local self-governments.

Local self-governments issue permits for outdoor trade and assign locations for points of outdoor sale. Without conducting a special study, it is difficult to assess to what extent the food safety requirements are followed at these outdoor sale points. However, a large number of citizens, including business operators, have voiced their dissatisfaction regarding unorganized, unofficial outdoor trade, which is a widespread phenomenon throughout Georgia. In December 2013, the NFA commissioned a sociological survey which was conducted in nine cities of Georgia. To the question “Should outdoor trade be permitted in Georgia?” some 41.3% of respondents responded negatively whilst 38.2% said that it should be permitted provided that quality control is implemented.<sup>31</sup> Food safety requirements are, unfortunately, poorly observed even in organized trade facilities in Georgia, let alone points of outdoor sale. Consequently, the conduct of control by the NFA does not even make sense. Local self-governments have to simply eradicate unorganized outdoor trade.

Local self-governments have repeatedly undertaken measures to regulate outdoor trade. This holds true for 2014 as well. Outdoor vendors often offer huge resistance to such measures and consequently attracting the attention of media and thus, the wider public. Often, the problem becomes settled for a certain period of time but thereafter, outdoor vendors come out onto the streets again. Outdoor vendors argue that they have very low incomes and cannot afford the rent of trade facilities and have no other option but to conduct their activity outdoors. This is, of course, an objective reality, but the reasonable intervention of self-governments, through the provision of adequate support to vendors and consistent enforcement of prohibiting measures will help resolve this problem.<sup>32</sup>

In general, unorganized outdoor trade is a significant factor in undermining public trust and support of food safety measures implemented by the state. Entrepreneurs often note the absurdity of the situation of NFA representatives demanding that they improve relatively minor food safety problems while outdoor vendors sell meat or cheese in absolutely unhygienic conditions next to their enterprises. Consumers often question the will of the government to ensure food safety in the country as they observe unorganized outdoor trade on a daily basis.<sup>33</sup> To ensure the success of food safety reform, local self-governments and

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<sup>31</sup> Psycho-project to study public opinion about issues related to ensuring food safety, December 2013, Q28.

<sup>32</sup> The fear of public discontent, which, as it seems, prevents the government from undertaking aggressive measures to solve this problem, is not substantiated. Many vendors in organized trade facilities are also unhappy because outdoor trade draws customers away, leaving organized vendors no other choice but to go outdoors themselves or quit trade altogether.

<sup>33</sup> Focus groups of entrepreneurs and consumers during this assessment; psycho-project to study public opinion about issues related to ensuring food safety, December 2013, Q28.5.

other relevant state entities need to undertake serious efforts to deal with this problem once and for all.

It should be noted that uncontrolled outdoor trade is largely conditioned by a low level of consumer education. Along with difficult social conditions, it is a lack of awareness of food safety risks that fuels the demand for outdoor trade. It will be difficult to tackle this problem without a large-scale consumer education campaign in which all public entities – both local self-governments and relevant central government entities – must play their particular roles.

#### **4.6 Ministry of Agriculture of Georgia**

The Ministry of Agriculture is the key entity responsible for the development and implementation of state policy in the food safety sphere. It is this entity that supervises the implementation of the Comprehensive Strategy and Legislative Approximation Program in Food Safety and the drafting of the Code of Food/Feed Safety, Veterinary and Plant Protection (see Chapter 3).

In 2014, as in previous years, one of the factors impeding the Ministry's work of drafting normative acts in food safety was a lack of human resources. The food safety department has only two employees. However, in 2014, to fulfill the obligations assumed under the EU-Georgia Association Agreement, it was decided to set up a Euro-integration department the following year, with the key task of revising a normative food safety framework.

Similar to 2012-2013, the Ministry, in 2014, continued to be relatively open in cooperating with society. Meetings with different stakeholder groups (CSOs and businesses) were conducted. This cooperation, however, was neither systematic nor institutionalized. Several draft normative acts were published on the Ministry website and interested persons were able to respond with comments on these documents to the Ministry. This, however, was not the case with regard to other normative acts.

Overall, the Ministry's interaction with society remained insufficient, especially taking into account the situation in the previous year. As the Association Agreement was signed, misleading information about obligations assumed by Georgia under this agreement, including information about food market regulation, began to spread, causing unnecessary anxiety among a segment of the population and fanning negative attitudes towards Georgia's European integration. Such attitudes are likely to continue, especially considering the planned approximation of Georgian legislation with 375 normative EU acts in the field of food safety. This is yet another reason for the Ministry to qualitatively overhaul its public relations and take a more proactive and consistent approach. It is necessary to institutionalize cooperation with the public, in particular to determine forms of cooperation with the public and make this cooperation systemic. NFA has already taken efforts to establish such a

cooperation mechanism in the form of a public council which is now being improved: the transformation of the public council into a mechanism of dialogue between the Ministry and the public should produce positive results.

To fulfill its obligations in the food safety sphere, the Ministry structure includes three entities: the Scientific-Research Center of the Ministry of Agriculture, the Laboratory of the Ministry of Agriculture and the National Food Agency.

The LELP Scientific-Research Center of the Ministry of Agriculture (hereinafter, the Center) was established in late 2014. Among other functions, the Center is responsible for assessing existing and anticipated risks in food safety, animal health and plant protection. For years, civil society organizations expressed their discontent about superficial assessments of food safety risks and the concentration of risk assessment and risk management functions into one entity – the National Food Agency. This issue was also discussed in previous reports on the state regulation of food safety, prepared at the initiative of Eurasia Partnership Foundation.<sup>34</sup> It is a welcome fact that the function of risk assessment has been separated from the NFA and entrusted to the scientific-research Center. It would be better for the Center, though, not to be subordinated to the Agriculture Ministry. This would create better guarantees for independent and impartial risk assessments. Anyway, considering that this entity was established at the end of 2014, that year saw no proper, scientific risk assessment conducted in the food safety sphere, which is necessary for the formation of reliable state regulation system.

2014 was a significant year for the Laboratory of the Ministry of Agriculture. It introduced new testing methods and developed the laboratory's regional network. The conduction of a whole set of tests became possible for the lab's regional departments. The laboratory obtained international accreditation on many testing methods. The continued development of this lab is important for ensuring the ongoing availability of services, because Georgia's regions experience a shortage of such labs and lab analysis of a number of important parameters cannot be conducted in Georgia.

Despite an observed positive tendency, it should be noted that, with this reform, the Agriculture Ministry Laboratory emerged as a strong rival to the private labs, some of which had been established at the behest of food business operators, while others as independent business entities.<sup>35</sup> These labs used to receive orders from both the private and public sectors (mainly from the NFA), but the Laboratory of Agriculture Ministry, with its status as a legal

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<sup>34</sup> See, Ketevan Dadiani, Rezo Kobakhidze, "Food Safety Regulation in Georgia: Assessment of the Government's Reform Efforts in 2012," Tbilisi, 2013, p. 17, [http://www.epfound.ge/files/report\\_geo\\_final\\_1.pdf](http://www.epfound.ge/files/report_geo_final_1.pdf) and Ketevan Dadiani, Rezo Kobakhidze, "Food Safety Regulation in Georgia: Assessment of the Government's Reform Efforts in 2013," Tbilisi, 2014, p. 19, [http://www.epfound.ge/files/report\\_12.1.1.pdf](http://www.epfound.ge/files/report_12.1.1.pdf)

<sup>35</sup> In 2014, up to 20 private labs had national accreditation.



entity in public law and its low rates (which are somewhat subsidized with public funds), has become more attractive for customers as compared to private labs. Such distorted, one-sided competition creates a real threat that the Ministry lab will monopolize the sector. For example, the NFA has already decided to commission lab tests envisaged in the annual program of state food safety control to the Laboratory of Agriculture Ministry. Over the past few years, the civil sector and private labs have repeatedly inquired about the state vision of the role of private labs in the food safety regulation system. The response of the Ministry has always been that the state would simply fill those niches not handled by private labs. In reality, however, the public entity has rendered private labs uncompetitive. It is important for labs, like any private business, that the environment they operate in is clear and the prospects of market development predictable. This, however, was not the case in 2014.

In its official letters to Eurasia Partnership Foundation, the Agriculture Ministry explained its newly formed approach towards labs with the requirements of several EU normative acts. In particular, the Ministry declared that according to EU legislation, a state lab must implement state control<sup>36</sup> and that this is the common practice in EU countries; whereas private labs are used only on those occasions when the public lab cannot fulfill a particular objective. An effort to move closer to EU legislation is, of course, welcomed, but this approximation takes place, step-by-step in every sphere, including the food safety sphere. The government's main argument to justify this approach is that the private sector must not sustain damage and must gradually prepare for changes. It is not clear why the same approach was not applied towards private labs, especially given that this approximation with the EU legislation implies the eradication of unhealthy competition as well.

Yet another argument put forth by the Ministry is that for Georgian products to enter a certain segment of the European market, lab tests of product must be conducted in facilities that have international accreditation<sup>37</sup> and the Ministry Lab is considered to be such a facility. However, one of the requirements in the abovementioned draft regulation is the absence of conflicts of interest in labs involved in state control.<sup>38</sup> It is not clear how this

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<sup>36</sup> It indicates a draft regulation, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...] /2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation), Article 36.

<sup>37</sup> A letter MOA 2 15 00003273 of Deputy Finance Minister Iuri Nozadze, 26.01.2015.

<sup>38</sup> Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...] /2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation), Article 36, 4, (c)

requirement is met by the Ministry lab when, first, it fulfills the orders of private sector and then, conducts state control of products of the same business operators.

In EU countries, the roles of private and state labs are separated. State labs perform only state orders while the customers of private labs are entrepreneurs.

Furthermore, the agriculture development strategy envisages the transformation of the Ministry lab into a referral center,<sup>39</sup> which means that it will be the highest authority in the country in matters concerning lab tests. In other words, this lab will have the final say in all disputes concerning the results of lab tests. Consequently, it is unclear whether the Ministry lab will be formed as a referral center alone or will continue to perform the additional two functions.

This situation seriously jeopardizes the existence of private labs in the country and shifts the entire responsibility for ensuring laboratory analysis in the food safety system onto one organization: the Agriculture Ministry Laboratory. Such an approach is, on the one hand, unfair towards private labs as it damages their interests as private business, and on the other hand, curtails competition, which, in turn, is likely to have a negative impact on further reforms in the food safety field. The Ministry must formulate a clear, well-thought-out attitude towards the role of its lab, on the one hand, and towards private labs, on the other, in such a way as to ensure the protection of state interests and at the same time, to facilitate the development of private labs. The government must thoroughly evaluate the existing capacities and future potential of private labs and assume the duty of performing only those functions which, for the time being, cannot be conducted or would be improper to be conducted by private labs.

#### ***4.6.1 National Food Agency***

##### ***General Results of 2014 Activity***

The LELP Food Safety Agency is one of key actors in the system of food safety regulation. Its main functions include the control of food safety throughout the country and the implementation of preventive measures against animal and plant diseases.<sup>40</sup> The scope of the Agency's activities had been increasing over the past few years and this trend continued in 2014. For example, according to the information provided by the Agency, the number of conducted inspections doubled as compared to 2013, the number of enterprises which had their production processes suspended increased six times, the profile of business operators having undergone inspection widened, the number of food samples (including drinking

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<sup>39</sup> Strategy for Agricultural Development in Georgia 2015-2020, pg. 34, [http://moa.gov.ge/contentimage/STRATEGIA\\_-geo\\_print.pdf](http://moa.gov.ge/contentimage/STRATEGIA_-geo_print.pdf)

<sup>40</sup> Paragraph h20, Article 2, the Law of Georgia 'Code of Food/Feed Safety, Veterinary and Plant Protection'.

water) tested at labs increased six times, points of food sale being subject to monitoring- documented inspections increased by 40%, and research of veterinary medicines and other polluting waste material in food products of animal origin was conducted for the first time ever. Number of identified cattle doubled in comparison to 2013. After a multi-year interval, 2014 saw the presence of phytosanitary monitoring – the study of widespread pest situations – which is a necessary condition for the efficient fight against them.

All this has become possible owing to the increase in NFA personnel (in 2014, the NFA saw the addition of 181 employees with 136 of these placed in regional departments), the improvement of infrastructure and a technical base, the training of employees as well as the empowerment of regional departments. While in previous years the NFA had been an extremely centralized structure, in 2014 its functions were delegated to regional departments. This enabled the NFA to react to unexpected threats more rapidly and also to improve the cost-efficiency of its activities. For example, while in previous years inspections across Georgia were conducted solely by the central office, today regional departments conduct inspections in their respective regions.<sup>41</sup>

The 2014 achievements of the NFA in terms of food safety improvements may be outlined based on the following statistical data obtained from the NFA:

- The failure of business operators to fulfill Agency recommendations decreased by 9.2% as compared to 2013;
- The number of instances of the sale of expired food products decreased by 38.4% as compared to 2013;
- The number of anthrax cases among cattle, after a 2013-2014 vaccination campaign against this disease, decreased whilst no cases of humans contracting this disease were registered;
- The amount of cattle slaughtered at slaughterhouses under veterinary supervision increased by 32% as compared to 2013.

Despite these achievements many problems still remain unsolved. For example, the number of violations detected in honey samples is quite high – in 30% of tested samples, the amount of veterinary medicines and other pollutants exceeded the permitted norms. The contamination of potable water also remains a problem. The largest segment (35%) of the

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<sup>41</sup> For more information about the 2014 activity of NFA see the NFA's 2014 annual report, [http://nfa.gov.ge/files/Report\\_2014.pdf](http://nfa.gov.ge/files/Report_2014.pdf); also the report on inspecting food and feed business operators, [http://nfa.gov.ge/files/inspeqtirebis\\_shedegebi\\_2014\\_weli.pdf](http://nfa.gov.ge/files/inspeqtirebis_shedegebi_2014_weli.pdf).

violations detected by lab analyses had to do with drinking water. Much work remains to be done in the area of the identification of domestic animals; until this has been completed, one cannot speak about full-fledged veterinary control in the country. The spread of brucellosis among cattle is still a problem and the number of cases of humans contracting brucellosis has increased.

The issue of enterprise inspection by the NFA should also be noted. In particular, in 2014, the NFA inspected 2,705 business operators. There are, in total, up to 35,000 food business operators registered in the country. Thus, the NFA conducted inspections of 8% of them, a significant improvement compared to previous years and in line with international experience of similar agencies. This is a very good indicator. But one problem is that the data concerning registered food business operators is not accurate. It remains difficult to say how many business operators actually operate on the market. First of all, a large segment of Georgian agriculture consists of small farmers who regularly supply the market with their produce, but who are not obliged to register as food business operators. Consequently, the number of officially registered business operators is just a small percentage of the total number of enterprises and farms which are engaged in food production. Moreover, considering that until 2013 food safety control was either not conducted at all or was conducted on a very small scale, the amount of current control cannot be considered satisfactory. Furthermore, as noted above, the NFA fails to identify the sources of the infections of those diseases which NCDC has studied. On top of everything else, the improper evaluation of food-related risks makes it difficult to evaluate how adequate and effective the state control of food safety and preventive measures are in this regard.

Yet another noteworthy issue is the checking of food product composition against the information provided on labels. Over the past few years, civil society organizations exposed a number of frauds. For example, in “dairy products” the composition of milk fat is either small or absent altogether; fruit “juice,” in fact, only partially contains juice. These are examples of the consumer being cheated. Although such deceptions do not inflict direct harm on people’s health, if, over a period of years, a person (especially a child) consumes those “dairy products”, which are in reality made from vegetable fat, his/her body will consistently not consume that amount of substances which is necessary for his/her normal development and hence, may damage his/her health.

It is a welcoming fact that the NFA began to inspect food against their labels, but given the scale of such violations, one can assume that the amount of this control is not adequate. The 2014 NFA report does not clearly indicate the number of products whose composition was inspected, and meanwhile the number of detected violations stands at 18 which is a very low indicator for even a small country like Georgia. Although the key priority of the NFA is to prevent harmful products from entering the market, the control of consumer deception must be conducted on a larger scale.

The data published by the NFA is not enough to evaluate the efficiency of its activity. True, the reports published by the NFA improve year after year, but not sufficiently enough. We believe that the NFA should, jointly with other entities, draw up a result-oriented action plan with corresponding indicators for each component of its activity in order to achieve a decrease in foodborne diseases. Consequently, the NFA annual reports, which are public, should be, first and foremost, focused on the evaluation of the attainment of these results.

### ***Management***

An important management-related change took place in 2014. Since November 2014, the NFA has had a new head, and since early 2015 – a new deputy head.<sup>42</sup> The NFA is a LEPL at the Agriculture Ministry which made no comments on this abrupt change, especially considering that 2013-2014 saw a sharp increase in Agency activity and it became much more open to accommodating representatives of the public interested in the activity of the Agency.

An important problem faced by the NFA is the shortage of cadre of professionals, as there are very few individuals in the labor market with relevant academic background and experience. Proceeding from the capacity of the NFA and with substantial assistance from the EU, NFA employees are engaged in short-term training programs. This fact, along with continued hands-on practice, will gradually develop needed competence, although this, of course, requires both time and the preservation of upgraded personnel. Yet another problem related to this shortage of cadres is the work overload experienced by the NFA management team. However, by revising management approaches and delegating functions it might be possible to increase the efficiency of the NFA.

Apart from the increase in the scale of NFA activity, it is very important to set up a system of employee control which will minimize risks of corruption or bias. At the same time, amendments introduced to the Code of Food/Feed Safety, Veterinary and Plant Protection in April 2014, resulted in the improvement of the regulation of conflicts of interest (Article 62) – a welcome step, indeed. Nevertheless, a number of sub-laws need to be drafted, detailing rules of employee conduct to avoid risks of conflicts of interest. It must be noted that the NFA has already implemented certain measures designed to minimize corruption risks. For example, one such measure was the filming of the inspection process. Due to technical problems, however, the videotapes had flaws or they were kept by inspectors alone. There is also a practice of various NFA departments conducting inspections of one and the same enterprise, when such a need arises. This also reduces risks of corruption, though this practice is not officially established.

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<sup>42</sup> After the appointment of the new head, two deputy heads of the Agency maintained their positions.

An important problem is the collection and management of information by the NFA. Until recently, the NFA used two main databases run by other entities – the Electronic Integrated Disease Surveillance System and the Public Registry database – to identify food business operators. Serious shortcomings were revealed in terms of the efficient use of the first program (see above). As regards the second database, practice has shown that it also has serious flaws because food business operators often do not declare, or incorrectly declare, the relation of their activities with food products, thereby making it difficult to first identify and then, control them. To overcome this problem, employees of regional NFA departments conduct double-checking of operating business operators on site. In parallel to this activity, the Public Registry database must be revised. Apart from these databases there is a need to develop other electronic databases, including the establishment of a backup system of existing data, in order to ensure the efficient operation of the NFA.

### ***Publicity and Public Relations***

One of the tools necessary to ensure the efficiency of state control is the full publication of its results. This makes consumers better informed and stimulates law-abidance on the part of entrepreneurs, as awareness of food safety requirement violations among citizens will negatively affect the sales and the proceeds of business operators. This is exactly why making the results of control public is a well-tested method in the West.

A step forward made by the NFA in the past few years is the operative publication of information about detected violations, with corresponding business operators and products indicated, and also, periodic publications of overall results of control which it started to publish in 2014. Information about revealed violations was published in an ongoing regime in the form of news on the NFA website and Facebook page. However, information is not published about all violations and the criteria for selecting information for publication were not clear. It should be noted here that information must be operatively published on each and every detected violation. If, for some objective reason, it is impossible to operatively publish information on a detected violation, public criteria must be developed according to which the violations revealed by the NFA will be made known.

For the first time ever in 2014 general data concerning the control conducted over a concrete period of time, with business operators and violations indicated therein was published. This time too, the population was not provided with information on every type of control conducted by the NFA (in particular, information about pesticides, agrochemicals, veterinary medicines and the results of the control of corresponding facilities were not published). Categories for these data and the regularity of their publication must be clearly defined.

Moreover, to increase effectiveness of published information, it is better for the NFA not to limit itself to the publication of dry data alone but to add some descriptive elements which

will describe detected harmful products, misleading products, enterprises with significant violations as well as enterprises that observe the requirements, et cetera. It will also be good if the NFA starts developing an online database and a rating system for entrepreneurs. This recommendation was made in the 2012 assessment report as well.<sup>43</sup>

Another positive initiative in terms of ensuring civil sector involvement was the establishment of the “civil council.” The council was created at the end of 2013 as one of the mechanisms of dialogue between the NFA and society. Among the invitees to the council were representatives of business associations, civil organizations interested in the food safety sphere, and specialists. The council is open to new members too. The charter of the civil council envisaged a meeting once every quarter. However, in 2014, only two such meetings were held and these without any tangible results. Thus, the hall actually failed to perform its role last year. Anyway, it is possible to effectively enact this mechanism and make it beneficial.

According to observations of civil society organizations, recent years have seen a stable improvement in the NFA response to applications from CSOs or consumers to alleged violations. The assessment proved that in the majority of such cases, NFA employees inspected corresponding products or facilities in the shortest possible timeframes. However, it should be noted here as well that the number of applications from citizens is quite small. Despite the fact that in 2014 up to 50,000 cases of food-related poisonings were registered, the NFA received applications from only 20 citizens of which 19 were Tbilisi residents and only one the resident of a region. The main reason for this is the NFA’s low popularity – something which was proven by the most recent sociological survey showing that 76.5% of the Georgian population does not know anything about the existence of NFA.<sup>44</sup> The situation did not change in this regard towards the end of 2014. This is natural because the NFA hotline is not promoted and it is not always easy to obtain relevant information by calling the phone numbers indicated on the NFA website.

For years, the NFA took applications from citizens and CSOs about alleged violations as a note alone and did not react to them in an operative manner. The situation changed in 2013, and with the 2014 amendments to the Food Code, the NFA became obliged to operatively react to applications from consumers.<sup>45</sup> The Agency, however, is still not oriented towards encouraging an increase in applications from citizens. Out of eight NFA employees interviewed during the assessment only one stated that a low number of applications is one of the factors impeding their activity. An increase of the activity in this area is very

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<sup>43</sup> Ketevan Dadiani, Rezo Kobakhidze, “Food Safety Regulation in Georgia: Assessment of the Government's Reform Efforts in 2012,” Tbilisi, 2013, pp. 22-23.

<sup>44</sup> Psycho-project to study public opinion about issues related to ensuring food safety, December 2013, Q4 and Q4.1.

<sup>45</sup> Paragraph 6, Article 101, The Law of Georgia ‘Code of Food/Feed Safety, Veterinary and Plant Protection’.

important because even under the conditions of maximal enhancement of the scale of control, the NFA control will still not bring about desired results if citizens do not submit applications. Moreover, the more clearly citizens see that the NFA reacts to their applications, the higher the popularity of the entity and the trust of people towards it will become. In order to increase the number of applications from citizens, it is necessary to provide them with basic information about food safety issues because when equipped with the necessary knowledge, consumers will be able to help the NFA detect more violations than they do now.

## **5. Conclusions and Recommendations**

### **Conclusions**

- An increase was observed in almost half of the diseases spread between 2012-2014 whereas a decrease was observed in the other half. The indicator of diarrhea of presumed infectious origin remained high. An upwards trend was seen in presumed food poisoning, shigellosis, brucellosis and salmonellosis. 2014 saw one lethal case. In general, the number of cases is increasing.
- The government of Georgia continued to reform food safety regulation and to approximate it with the relevant EU legislation. An important impetus for the development of the system of food safety regulation was the signing of the EU-Georgia Association Agreement. The Agreement allocates a large amount of attention to the reforms to be implemented in the food safety sphere.
- Amendments introduced to the Code of Food/Feed Safety, Veterinary and Plant Protection are of special note as they significantly improved the fundamentals of state control and the cooperation between public entities and consumers.
- At the same time, the Food Code has the following shortcomings:
  - Until 2020, state control mostly will not apply to physical entities while a preferential regime will apply to business operators with an annual turnover of up to 200,000 GEL. Bearing in mind that the majority of entities engaged in food production/distribution are physical entities or small-size entrepreneurs, the above two regulations leave a large segment of Georgia's food market outside control, thus jeopardizing the provision of food safety in the near future.



- Responsibility for the conduct of state control is distributed between two different entities – the National Food Agency and the Revenue Service (at customs borders). According to the best international practice, it is better to entrust the responsibility for ensuring food safety to only one entity, the National Food Agency (NFA) in this particular case.
  - Fines envisaged in the Food Code are largely inadequate. On the one hand, a violator may find it much cheaper to pay fines than to observe the requirements of the law; on the other hand, equal fines levied on both small- and large-size enterprises for identical violations create more favorable conditions for large-size enterprises.
- State entities regulating food safety operate with a shortage of qualified personnel. This impedes activities and reforms in this sphere.
  - The level of awareness of food safety issues among entrepreneurs and consumers is quite low. This is partially due to the poor communication on the part of state entities about reforms that are being implemented in the food safety field.
  - The Agrarian Issues Committee of the parliament of Georgia is quite passive in its activities concerning the reformation of food safety legislation. Overall, when adopting food safety legislation, the parliament of Georgia has demonstrated an inconsistent approach and complicated the legislation of this sphere. Instead of introducing corresponding amendments to the existing legislation, the parliament adopted the Law on Labelling Genetically Modified Organisms Used in Food/Feed and Genetically Modified Food Produced Therefrom. The fines set by this law are totally inconsistent with the approaches of the Food Code, the key law regulating food safety.
  - The active cooperation of state entities, including the Agrarian Issues Committee of the parliament, the NFA and the Ministry of Agriculture, with the society at large was either maintained or improved. However, the cooperation of the NFA and the Ministry of Agriculture with Georgian society was still unsystematic and not sufficiently institutionalized.
  - The international standing of the National Agency for Standards and Metrology, and the Unified National Body of Accreditation (the Accreditation Center), the two entities subordinated to the Ministry of Economy and Sustainable Development and falling within the food market regulation system, has improved; however, the

requirements of the Accreditation Center for operating labs fall short of international standards. Moreover, a number of organizational difficulties and conflicts of interest were observed in the activity of “Technical Committee 3” (TC 3) which was set up by the National Agency for Standards and Metrology in the sphere of food safety.

- The revision of the highly outdated sanitary-hygienic normative framework still remains a serious challenge to the Ministry of Labor, Health and Social Affairs. The activity of the Ministry in this area is impeded by the fact that the Ministry has only one employee working on food safety issues.
- The statistics on foodborne diseases maintained by the National Center for Disease Control and Public Health of the Ministry of Labor, Health and Social Affairs are too general, preventing their proper use in planning state control. It should also be noted that the current cooperation between the Center and the NFA does not benefit the detection of hotbeds of foodborne diseases. The Electronic Integrated Disease Surveillance System covers only zoonotic diseases and even though the NFA is theoretically integrated into this system, it fails to effectively use the system in practice.
- Unorganized outdoor trade, which must be regulated by local self-governments, presents a serious setback for ensuring the efficiency of measures undertaken by the state in food safety and in thereby gaining public trust and support.
- The year 2014 ended without a proper, scientific assessment of risks in the food safety sphere, which is necessary to build a reliable state regulation system. However, the establishment of Agricultural Scientific Research Center can be evaluated as a step forward as this center is, among other things, responsible for assessing risks in the fields of food safety, animal health and plant protection. It is worth noting that this function was taken away from the NFA, the entity responsible for the management and communication of food-related risks; consequently, higher guarantees of impartiality in assessing risks have been created.
- Yet another step forward is the development of the laboratory of the Ministry of Agriculture and its geographic expansion into the regions of Georgia. At the same time, the vision of the Ministry about the roles of its own lab and the private laboratories in the food safety regulation system is unclear, especially, given the fact that the MoA lab, as a public entity, is able to utilize state funds to engage in

unhealthy competition with the privately owned laboratories, which, in turn, endangers the latter's existence.

- The NFA significantly enhanced the scale of its activities and has developed organization-wise. It delegated some of its controlling functions to regional departments, thereby turning the NFA into a more mobile entity. However, considering the situation in the country, the scale of food safety control and preventive measures cannot be considered satisfactory. Nor can the measures thus far implemented by the NFA to minimize risks of corruption and conflicts of interest be considered sufficient.
- The NFA has shown improvements in communicating information, including through the prompt publication of information about violations, in which corresponding business operators and products are named and also, starting from 2014, through the regular publication of general results of the conducted control. However, the criteria used to select information for publication are unknown. Another significant problem which persists is the accumulation and management of collected data/information.
- The past few years have seen a stable improvement in the NFA response to applications from civil society organizations or consumers about alleged violations. It should be noted that such appeals from citizens are not numerous; this may be explained by the fact that the NFA is not focused on encouraging citizens to apply in cases when they believe that the violations have occurred.

## **Recommendations**

### To the parliament and government of Georgia

- The parliament and government of Georgia must consider the shortcomings of the Food Code and eliminate those shortcomings by introducing corresponding amendments to the Code. In particular:
  - The state control must apply equally to legal and physical entities;
  - A preferential regime must apply to business operators having an annual turnover of up to 100,000 GEL;

- The conduct of state control in the spheres of food/feed, animal health and plant protection, both at customs borders and across the country, must be the responsibility of a single entity – the National Food Agency;
  - The principle for determining fines must be changed and the scale of violation and the financial standing of the violator must be considered on a case-by-case basis.
- The parliament and government of Georgia must study the efficiency of the use of resources allocated for the reformation of the food safety sphere.
  - The parliament and government of Georgia must consider the issue of developing human resources needed to reform the food safety sphere, as well as the issue of raising awareness of food safety concerns among entrepreneurs and consumers and must devise a plan of corresponding measures to tackle these problems.
  - The parliament of Georgia must pay greater attention to the consideration of food safety legislation and apply a uniform approach in its activity.
  - The Parliament Committee on Agrarian issues must take more initiative in food safety reform process.

#### To the Ministry of Finance

- The Finance Ministry must revise the activity of entities falling within its structure, and ensure their transparency and public accountability.

#### To the Ministry of Economy and Sustainable Development

- It is desirable to enhance the knowledge of the members of “Technical Committee 3” about best international practice in the sphere of standardization and to renew the composition of the committee.
- The roles of the National Agency for Standards and Metrology and the technical committees must be clearly separated. A member of the Agency must not be a member of the committee and must not participate in committee discussions. The NFA’s relationship with the committee must be limited to organizational functions.
- The Accreditation Center must bring its activity and requirements to labs in line with international standards as soon as possible.

### To the Ministry of Labor, Health and Social Affairs

- The Ministry shall assign more human resources for the fulfillment of its obligations in the food safety sphere.
- The Ministry of Labor, Health and Social Affairs and the Accreditation Center must determine how to receive more accurate statistical data on foodborne diseases.
- The cooperation between the Accreditation Center and the NFA must undergo a qualitative change to become more intensive and systemic.

### To self-government bodies

- Self-government bodies and other relevant state entities must undertake serious efforts to tackle the problem of outdoor trade. To this end, in addition to administrative measures, it is necessary to conduct a wide-scale education campaign targeting consumers; both local self-governments and relevant entities of the central government must contribute to this campaign.

### To the Ministry of Agriculture

- The Ministry's public relations must undergo a qualitative change to make it significantly more proactive and regular.
- The Ministry must institutionalize its cooperation with society. Forms of cooperation must be officially documented and must become systemic. One possible option for such cooperation which the Ministry should consider is the civil council established in the NFA.
- As it is of tremendous importance for ensuring food safety, the Agriculture Ministry and the parliament must pay more attention to the activity of the Scientific-Research Center of Agriculture in the area of food safety risk assessment.
- The Ministry must develop a clear, well-thought-out approach concerning the role of the Agriculture Ministry laboratory, on the one hand, and on the other hand, concerning private labs so that state interests are ensured while at the same time the development of private labs is supported. The Ministry must thoroughly assess the capacities and future potential of private labs and must assume only those functions which are impossible or inappropriate for private labs to perform for the time being.

## To the National Food Agency

- With regard to each component of its activity, the NFA, together with other relevant entities, must develop result-oriented indicators and plans aimed primarily at reducing foodborne diseases. Consequently, the NFA's annual public reports must, first and foremost, focus on assessing the attainment of this aim.
- The NFA must discuss the problem of attracting qualified personnel with the Agriculture Ministry and put this issue to the government and parliament.
- The NFA must revise its management approaches and devise plans to increase the efficiency of its activities.
- Official procedures must be developed to ensure the implementation of general requirements concerning the conflict of interests set forth in the Food Code and to reduce corruption risks.
- The NFA must step up its activity to improve the use of electronic databases and establish new databases.
- The results of the NFA control must be published in a full and timely manner. Criteria for the selection and processing of information for publication must be developed. Categories for such data must be clearly defined and a schedule of publication must be drawn up.
- The NFA must pay greater attention to the activity of the civil council; must improve the coordination of its activity, and; become more focused on receiving concrete results from the activities of the council.
- The NFA must take efforts to increase applications from citizens on alleged violations. This will help boost public trust towards the Agency, the popularity of the Agency and the effectiveness of its control.

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4. Giorgi Mikadze – Head of Food and Feed Inspection Department of National Food Agency.
5. Giorgi Chitadze – Director of Standards Department of the National Agency for Standards and Metrology.
6. Goga Turashvili – Head of Shida Kartli department of National Food Agency.
7. Demna Khelaia – Head of Veterinary Department of National Food Agency.
8. Ekaterine Kavtaradze – Deputy Director General of the National Center for Disease Control and Public Health.
9. Zurab Lipartia – Head of Phytosanitary Department of National Food Agency.
10. Zurab Tkemaladze - Chairman of Sector Economy Committee of the Parliament of Georgia.
11. Teimurz Koroshinadze – Chief hydrologist of IDS Borjomi Georgia / a member of technical committee of National Agency for Standards and Metrology.
12. Tengiz Kalandadze – Deputy Head of National Food Agency.
13. Iveri Akhalbedashvili – Head of Office of Sector Economy Committee of the Parliament of Georgia.
14. Ilia Sirbiladze – Head of Adjara regional Department of National Food Agency.
15. Ioseb Geladze – Pola LTD.
16. Kakha Sokhadze – Head of Food Department of National Food Agency.

17. Lali Madzgarashvili – Director of Laboratory of Ministry of Agriculture.
18. Lali Gogoberidze - Head of Economic Analysis and Policy Department of the Ministry of Economy and Sustainable Development.
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22. Marine Baidauri – Freelance employee of Health Protection Department of Ministry of Labor, health and Social Affairs.
23. Matti Lampi – Advisor, National Food Agency Institutional Development Program.
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