

**Food Safety Regulation in Georgia:**  
**Assessment of the Government's Reform**  
**Efforts in 2012**  
*(Report Summary)*

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## Overview

The report was prepared with the involvement of various stakeholders in the field of food safety, including experts, specialists, consumers, entrepreneurs, civil society organizations and government representatives. This allowed the researchers to explore a wide range of complex problems.

The conducted research, carried out in 2012 against the background of significant political change, proved to be unique considering the difficulties raised by the rapid and radical change in the governmental attitude towards a number of food safety-related issues, as well as a wide variety of opinions and attitudes of different parties regarding a number of food safety related issues. However, by applying a strict research methodology, stakeholder opinions were collated and researchers managed to develop uniform approaches on various issues. This work enabled the researchers to present, in this report, a civil assessment of activities which were implemented by the government of Georgia in 2012 in terms of the state regulation of food safety, including obligations assumed under the European Neighbourhood Policy Action Plan (ENP AP) for 2012, as well as to draw up certain recommendations. The report avoids, as much as is practicable, the repetition of those assessments which were expressed in comments made by the Directorate General for Trade of the European Commission concerning the Code on Food/Feed Safety, Veterinary and Plant Protection which highlighted inconsistencies in the Georgian legislation regarding the requirements of the European Union.

The state regulation of food safety directly affects the country's social and economic development. In recent years, and particularly in 2012, Georgia implemented significant reforms in the sphere of food safety. These reforms were designed to determine uniform principles in regulation of the food safety, develop an effective system of state control and ensure health protection. Nevertheless, mechanisms to ensure accountability and transparency, as well as civil society involvement in the process of developing and executing the legislative framework for food safety are either very weak or non-existent.

The reform in the sphere of food safety was detached from consumers and entrepreneurial interests dominated those of the consumer. Regardless, it still failed to ensure the adequate protection of the entrepreneurial interests of food product business operators or to create a favourable business environment. The majority of the entrepreneurs interviewed noted that equal treatment for all entrepreneurs was not ensured. The government's libertarian philosophy – the declaration of minimal state interference in the economy – and the shift to free market principles, led to the termination of an in-depth control which left business operators to face unfair, unequal conditions which, in turn, impeded the establishment of a competitive environment.

Despite the implementation of institutional reforms undertaken in Georgia, the termination of in-depth control of entrepreneurs for years, combined with a poor risk assessment system has prevented the establishment of an effective system that would, in principle, enjoy a high level of trust on the parts of society and interested parties and would ensure a significant

improvement in the country's food safety situation. We hope that in the following years, provided that priorities are correctly identified and bold reforms implemented, the Georgian government will undertake more efficient and transparent activities in the food safety sphere.

The study analysed the implementation of the Comprehensive Strategy and Legislative Approximation Programme in Food Safety as well as the fulfilment of obligations assumed under the ENP AP. It should be noted that the measures specified in the 2012 plan were not fully implemented within the specified timeframe and only a small percentage of obligations were fulfilled. This, compounded with the fact that the Comprehensive Strategy and Legislative Approximation Programme did not envisage the drafting of the Code on Food/Feed Safety, Veterinary and Plant Protection, questions the reliability of future visions, fundamentals and priorities specified in the strategy. It is also clear that the timetable for the harmonisation of Georgian legislation with EU legislation, provided in the Strategy and Legislative Approximation Programme, is not based on realistic calculations, which should have taken into account the complexity of the EU legislation in the food safety sphere, along with the capacities, needs and weaknesses of state entities, consumer associations and the business community. The overall existence of the political will to implement these reforms seems doubtful.

## **Research methodology**

The research involved the following activities:

1. In-depth interviews with 18 respondents (in Tbilisi, Kutaisi and Batumi) from the following target groups:
  - Government representatives (including those who left the government after the 2012 parliamentary elections).
  - Civil society organizations.
  - Entrepreneurs.
2. Focus-groups:
  - Two groups (Eastern and Western Georgia) – entrepreneurs who had been inspected (Tbilisi and Batumi, 8 persons each).
  - Two groups (Eastern and Western Georgia) – consumers who had had problems in relation to the consumption of food products (Tbilisi – 10 persons, Batumi – 8 persons).
  - One (control) group – ordinary consumers (Tbilisi – 8 persons).
  - One group – specialists (Tbilisi – 8 persons).
3. Online-questionnaires filled in by the following target groups:
  - Businessmen (9 persons).
  - Consumers (71 persons).
  - Representatives of civil society organizations (10 persons).

4. Analysis of relevant documents (public information was received from various entities, Annex N°2).

## **Major Conclusions and Recommendations**

Overall, in 2012, a number of steps were taken towards the improvement of the regulation of the food safety system. However, the measures undertaken were not sufficient to notably improve the situation.

### **Publicity and public involvement in the reform process**

#### **Conclusions**

- Similarly to previous years, the year 2012 passed without the creation of any institutional mechanism which would ensure the involvement of specialists and all interested parties in the development of a normative framework for food safety regulation. After the draft Code on Food/Feed Safety, Veterinary and Plant Protection had been submitted to the parliament, society did have a certain possibility to provide opinions to representatives of authority; however, the process of drafting normative acts adopted by the government was absolutely non-transparent even though bylaws are of utmost importance for the enactment of norms defined by major laws.
- A comprehensive assessment of state activities in the field of food safety is, at this stage, impossible because this would require a higher level of transparency of relevant public entities and fundamental research of their activities, which seems unrealistic judging from the general reports provided by them or other publicized information.
- Even though the Code on Food/Feed Safety, Veterinary and Plant Protection imposes important obligations and responsibilities on entrepreneurs, the level of both entrepreneurial and consumer awareness of this key legislation affecting business activity is very low.
- Society at large has no access to the information regarding food-related risks, which is communicated via the Rapid Alert System for Food and Feed (RASFF). This information was published in previous years on the webpage of the National Food Agency.
- Consumers were not duly informed about the results of state control conducted by the National Food Agency, in particular about instances of the dissemination of hazardous food products, which were quite frequent, according to the 2012 National Food Agency report.
- The consumer complaints response mechanism is inefficient. The National Food Agency is authorized to undertake an operative response to a consumer's complaint

only if a consumer has been poisoned. At the same time, the procedures which a customer must undertake to have his/her complaint elicit an operative reaction from the Agency, are actually unrealizable. This significantly impedes the response to violations as well as the cooperation of consumers with state entities.

### **Recommendations**

- To select methods and mechanisms for communicating as much information as possible about the requirements of normative acts drafted in the area of state regulation of food safety to business operators, consumers and consumer rights watchdogs; also to ensure the involvement of interested parties in the process of drafting such normative acts.
- To work out a systemic approach to communicating comprehensive information about food-related threats and risks to consumers in an operative manner, including mechanisms and forms for easy access to information reflecting the results of conducted state control.
- To make the consumer complaint response mechanism realistic and efficient. The system must be oriented towards encouraging consumers to fully cooperate with state controlling bodies with the aim of eliminating harmful practices in the food market.

### **The Comprehensive Strategy and Legislative Approximation Programme in Food Safety**

#### **Conclusions**

- According to the general plan of the Comprehensive Strategy and Legislative Approximation Programme in Food Safety, the majority of measures slated to come into effect in 2012 were not implemented. For example, a program on vertical approximation with EU legislation was not drawn up. In addition, products which were to become subject of relevant EU regulations during the initial stage were not identified. Now obsolete hygienic norms and a number of normative acts (such as: hygienic requirements for the quality and safety of food raw material and foodstuff, sanitary rules and norms for the use of food additives, etc.) have not been revised since 2001. The Strategy and Legislative Approximation Programme in Food Safety did not envisage the development of the Code on Food/Feed Safety, Veterinary and Plant Protection, which is currently in place. All this provides the grounds to assume that the timetable for the approximation of the Georgian legislation within the EU legislation, as specified in the Strategy Approximation Programme, was not based on realistic calculations; on the other hand, there was no corresponding political will for the implementation of these reforms.

### **Recommendations**

The attitudes and plans reflected in the Strategy should be revised. The program of approximation of the Georgian legislation with the corresponding EU legislation

(including the development of vertical approximation) and its timetable should be based on realistic calculations taking into account the complexity of EU legislation in the food safety sphere; positions of state entities, consumer watchdogs and the business community; and existing problems in the sector and the resources necessary for carrying out the reforms.

### **Risk analysis (risk assessment, management, communication)**

#### **Conclusions**

- Georgia's risk analysis system is weak and superficial. Risks related to the health of the population are not properly taken into account. The legislation does not oblige relevant state entities to obtain competent scientific opinions, draw up a risk assessment methodology, perform research and analysis of scientific and technical data in order to carry out a risk analysis in the sphere of food safety. Without the above-mentioned measures, however, it is impossible to carry out a fully-fledged risk analysis.
- The functions of risk management and communication are not separated from that of risk assessment, with the National Food Agency having the responsibility to perform all these functions. This is not congruent with the relevant EU legislation and guiding documents. While the law envisions risk assessment to be carried out in an independent and objective manner, it is not implemented in practice.

#### **Recommendations**

It is necessary to functionally and structurally separate the processes of risk assessment and risk analysis in order to ensure independence, objectivity, impartiality and transparency of risk assessment. The Ministry of Agriculture should undertake the function of coordinating the implementation of risk assessment procedures and ensure the normative and methodical provision thereof, which will require certain changes to the institutional structure. The Ministry, with the involvement of interested parties, including the Ministry of Labour, Health Care and Social Affairs of Georgia, should draw up an action plan for implementing the corresponding measures ensuring risk assessment and communication processes.

#### **System of control**

#### **Conclusions**

- Legislation regulating control of the food market, as well as the implementation of this control, has serious flaws which, overall, render the intended control inefficient.
- Current rules and conditions for the registration of food business operators in the Entrepreneurs Registry database are inadequate. Therefore, it is impossible to identify

the real number of functioning food business operators and, based on that information, to develop a proper annual programme of state control.

- The fine for operating an unregistered business is too small - GEL 300. This enables a dishonest entrepreneur to continue his activities without observing the requirements of the law, which thus endangers consumer health. Respect for the law requires the implementation of investments in a concrete facility, which significantly exceeds the amount of the fine.
- A controlling body is obliged to notify a business operator at least a month in advance of a planned inspection. According to the EU Regulation N882/2004, “Official controls shall be carried out without prior warning, except in cases such as audits.”<sup>1</sup>
- If a “critical non-compliance” is established in an enterprise as the result of a state control, the law requires that the enterprise cease operation, which is a major blow for any entrepreneur. However, the law’s ambiguous definition of “critical non-compliance” raises doubts about the fairness and objectivity of such a decision made by an inspector or other authorized person. Standard operating procedures for establishment of “a critical non-compliance” by an authorized person conducting a control do not exist.
- In practice, the main obstacle to the effective conduct of market control is the underdeveloped system of risk analysis. Without eliminating this flaw, one cannot speak about any efficiency of control because the system of control must be established on a basis of in-depth, systematic, scientific assessment.
- As of today, there are several tens of thousands of registered business operators (more than 50,000). In 2012, only 0.8 per cent of enterprises registered as food operators were inspected whilst in previous years that number was even less. In reality, over the period of seven years since 2005, a total of 701 food business operators have been inspected (11 in 2009, 51 in 2010, 218 in 2011, and 421 in 2012), which is a very small number. Taking into account tens of thousands of peasants and small farmers, who are actually represented on the consumer market but at the same time are not registered as food business operators in accordance with the current legislation, the situation in terms of scale of inspection is unfavourable indeed.
- The geography and spectrum of conducted inspections are worth noting separately. In fact, the majority of inspections have been carried out in Tbilisi and the Adjara region. It is unclear why the inspection of such enterprises as brand supermarkets was considered topical in 2012, when none of the child food business operators, catering facilities at schools, hospitals and centres for the socially vulnerable as well as those markets where the majority of consumers purchase food products (which even by appearance look unsafe) were inspected.

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<sup>1</sup> REGULATION (EC) No 882/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004/“Official Controls on Food and Feed”/Chapter 1; Article 3 (2).



- The inspection process conducted in 2012 was not consistent and stable because during separate periods inspections did not take place at all whereas at the end of the calendar year, the inspections and the control of compliance with the issued recommendations turned very aggressive. Actually 104 of the planned 377 inspections (or, 28% of all inspections) were conducted during the final 45 days of the year.
- The legislation does not properly ensure preventive measures against falsification and other ways of misleading consumers when purchasing food products. The Code on Food/Feed Safety, Veterinary and Plant Protection does not regulate issues related to food quality and falsification at all even though the facts revealed by organizations working on the protection of consumers' rights provide the grounds to assume that food consumers in Georgia are being misled on a massive scale.

### **Recommendations**

- To revise and improve the rules related to the registration of business operators so that this information becomes accurate and maximally useful to relevant units of the Agency.
- To revise the scale of fines established for unregistered activity.
- To introduce planned inspections without prior notice to business operators.
- To specify a basic terminology of requirements provided in the law regarding “critical non-compliance”; to draw up standard instructions; to conduct active training for inspectors in order to ensure consistency of their decision, and establish a corresponding mechanism for double-checking the level of their knowledge and professional skills.
- To base the state control of the food product market on a comprehensive risk assessment system.
- To significantly enlarge the scale of food market control.
- In order to diversify the capacities of the state control of business operators operating on the consumer market and significantly enhance the scale and area of this control, it is extremely necessary at this stage to ensure, on the basis of the effective legislation: a) the support in putting private inspection bodies into operation as soon as possible, and b) the improvement of principles, approaches, methods and forms for enhancing the efficiency of the activity of the National Food Agency and private inspection bodies and the establishment of a successful practice of cooperation between them.
- To ensure the consistency and stability of the inspection process.

- To ensure legislative regulation of state control on food quality and falsification and allocate corresponding resources for the implementation of this control.

### **Systems of surveillance of food-borne diseases**

#### **Conclusions**

Systems of surveillance of food-borne diseases, including zoonotic diseases, and preventive measures to be undertaken in this area are incomplete which impedes the implementation of fast, efficient and timely interventions. At present, it is impossible to identify a share of each product group in food-borne diseases and consequently, to evaluate the impact of hazardous factors on the health of population. The current system of interaction between the National Food Agency and the Centre for Disease Control and Public Health is not efficient and not subject to timely reporting.

#### **Recommendations**

To improve the interaction between the National Food Agency and the Centre for Disease Control and Public Health, the Ministry of Labour, Health Care and Social Affairs of Georgia and the Ministry of Agriculture should issue a new joint order ensuring that each of the parties maintain and enhance the capacity and possibilities for the detection, communications and reporting about cases of food-borne diseases among consumers. To ensure joint assessment, analysis/conclusions and operative implementation of preventive actions, the same decree should specify concrete mechanisms/procedures and a feasible time-table for improving and raising the efficiency of joint activity.