

# FOOD AND AGRICULTURE

1.29

The long-expected amendments to the Food Safety Law and the Plant Protection Products Law were enacted last year. The amendments to the Food Safety Law reorganized the division of responsibilities between the competent inspectorates of the Ministry of Agriculture and the Ministry of Health. It is crucial that these two very important laws, directly related to food safety and quality, be harmonized with EU regulations to ensure consumer rights protection and safety, as well as to create conditions for strengthening the agricultural sector.

Harmonization with the EU has not progressed at the expected pace, and enforcement seems to be an even greater challenge. Although several regulations were enacted covering quality areas of certain categories of food, only a part of these are the result of the process of harmonization with EU regulations, while the rest of the regulations are largely a result of the need to modernize outdated national regulations. Although improved, as national regulations, they can present a barrier to trade and somewhat restrict local manufacturers in applying innovative processes and products. By announcing amendments to the Regulation on Nutritional and Health Statements, the Ministry of Health extended the deadline for compli-

ance with its requirements, recognizing the need of the economy to plan and reduce the inevitable costs incurred as a result of changing regulations and ensure better implementation to protect consumer interests.

The newest amendments to the Food Safety Law have introduced Reference Laboratories, entrusted with part of the tasks belonging to the National Reference Laboratory. The activity progress report of the Expert Risk Assessment Council, established in June 2017, as well as the activities of this Council are yet to be disclosed to the public concerned.

There is still room for improvement, both in terms of improving the regulatory framework to ensure high standards of food quality control as well as applying a uniform approach to controlling all market participants – importers and domestic producers alike. Heftier investment in agriculture and livestock development is needed and should be provided through funds for subsidies and state incentives for the agricultural sector. Equally important is the strengthening of capacities of the veterinary and phytosanitary directorates, the national reference laboratory, and the consistent application and improvement of the risk-based approach.

## A. FOOD SAFETY

### 1. FOOD SAFETY LAW

1.33

#### WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Align the Food Safety Law and all its by-laws with the EU acquis (178/2002/EC and all its by-laws)	2017		√	
Clearly define responsibilities and separation of jurisdictions of inspectorates and their operating procedures	2014		√	
Establish a National Food Safety Agency, like the ones widely established in the EU Member States and neighbouring countries, and create conditions for the National Reference Laboratory to perform all the activities envisaged by the Law, to further improve overall food safety	2018			√
Equate the status of importers with that of domestic producers regarding costs of sample analysis, while defining the criteria for analysis costs for Food and Feed Business Operators	2017			√
Establish a system of risk analysis in all inspection services	2015		√	

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Accept the results of product tests performed by foreign accredited laboratories	2015			√

## CURRENT SITUATION

The Food Safety Law (hereinafter: Law) was adopted in 2009, but has not been fully implemented so far, nor have the related by-laws been adopted. Amendments to the Law that had been announced several times were finally published in Official Gazette RS, No. 17/2019 and applied from 4 April 2019.

The amendments to the Law introduced the separation of jurisdictions between the Ministry of Agriculture and the Ministry of Health. The competence of the Ministry of Agriculture’s Inspection is more closely defined with the adoption of the Rulebook on the type of food and the manner of carrying out official controls, as well as the list of mixed foods and the manner of control of this food in April 2019.

The National Reference Laboratory (NRL) was opened in 2015. New amendments to the Law predefined its jurisdiction and introduced Reference Laboratories, which were entrusted with part of the work performed by the National Reference Laboratory.

The Ministry of Agriculture established the Working Group on Milk in 2015, but as of mid-2019 there was still no harmonization of the current legislation on milk safety. According to the latest amendment to the legislation, enacted in November 2018, application of the maximum permitted aflatoxin M1 content in raw milk of 0.25 µg/kg was prolonged and this provision will apply until 30 November 2019. The extension of the validity of the provision benefits milk producers in the Serbian market, since they will be able to produce and distribute milk with a slightly higher content of aflatoxin M1. On the other hand, they are limited in relation to export, since the maximum limit of aflatoxin M1 in raw milk in the EU, as well as in countries in the region, is set at 0,05 µg/kg, which, according to the current regulation, also enters into force in Serbia from 1 December 2019. At the same time, these measures currently allow the import of milk with aflatoxin levels exceeding the 0,05 µg/kg limit, from countries in the region and the EU. Due to all of the above, and primarily in the interest of food safety, the current legisla-

tion should be harmonized with the EU acquis, and activities should be focused on the application of measures to reduce the presence of aflatoxin in animal feed.

The Expert Council for Risk Assessment was officially established in April 2017.

The new Regulation from March 2018 defines the maximum permitted levels of contaminants in certain types of foods (Annex V), but it is not yet fully harmonized with the current EU regulations (1881/2006/EC). An additional problem is that some metals identified as contaminants in the Regulation are not treated as contaminants in the EU.

With amendments to the Law, Article 71 is changed so that the payment of fees for laboratory analyses is no longer stipulated by this Law. Instead, the obligation to pay charges for performed official controls was introduced. In practice, the charge for official control at import had been paid even before the adoption of the amendments to the Law, while the costs of analyses, due to the lack of harmonization of the Food Safety Law with the Law on Sanitary Oversight and the different inspection procedures applied at certain border crossings, had in most cases been borne by importers from which the sample had been taken, regardless of whether the sample was in compliance with the requirements of the regulation or not. It is now clearly defined that the cost of laboratory analyses is no longer covered with funds allocated in the budget, even if the sample corresponds to the prescribed characteristics, in what has aligned this Law with Article 16 of the Law on Sanitary Oversight.

It is also expected that a new Regulation on the amount of fees for official controls will be adopted, after which the economy will have a clearer picture of the actual effects of this change.

## POSITIVE DEVELOPMENTS

In 2018 and 2019 some improvements were detected in areas that are under the competence of the agricultural inspectorate at the Ministry of Agriculture, Forestry and

Water Management. With the amendments to the Law and the adoption of the Regulation defining the area of competence of inspections, retail control is granted to the Agricultural Inspectorate. By publishing the Regulations on the special elements of risk assessment from the competence of the sanitary inspection and from the competence of the agricultural inspection at the end of 2018, a framework for initiating the risk assessment process was created.

### REMAINING ISSUES

The unfavourable position of importers of food and raw materials for the food industry relative to domestic producers:

- Criteria for laboratory analysis of imported goods – There are no uniform rules in the procedures of inspection services in terms of costs, deadlines, fieldwork mechanisms, the number of samples, and the type and number of analyses.

No improvement or coordination was noted in the application of risk assessment and analysis methods:

- Positive developments in the field of risk analysis envisaged by the Law that the establishment of the Expert Council was expected to bring did not materialize.
- The risk analysis would enable the classification of food business operators into low- and high-risk operators, which would speed up the customs clearance and marketing of low-risk goods. Importers rated as low-risk would be able to save money and time through a faster issuance of documents and reduced number of samples taken at import.
- Risk analysis would reduce the inspectorates' workload, saving their limited resources, which would be directed mainly to inspections of high-risk products.

The official report on the work of the Expert Council for Risk Assessment and the Council's activities are still unknown to the public concerned.

### FIC RECOMMENDATIONS

- Align the Food Safety Law and all its by-laws with the EU acquis (178/2002/EC and all its by-laws)
- Clearly define inspectorates' operating procedures.
- Establish a National Food Safety Agency, like the ones widely established in the EU Member States and neighbouring countries, and create conditions for the National Reference Laboratory to perform all the activities envisaged by the Law, to further improve overall food safety.
- Define the criteria for analysis costs for Food and Feed Business Operators.
- Establish a system of risk analysis in all inspection services.
- Accept the results of product tests performed by foreign accredited laboratories.

## 2. SANITARY AND PHYTOSANITARY INSPECTIONS

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### WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adopt a new Law on Sanitary Oversight	2018			√
Adopt enforcement regulations on sanitary and phytosanitary inspection in line with the Law on Inspection Oversight and the EU acquis	2017			√
Recast the Decisions of the line inspectorates to allow the use of raw materials in production without the right to release the finished product into free circulation until the raw material analysis results are obtained	2017			√
Ensure the implementation of uniform rules in the procedures of inspection services, in terms of costs, deadlines, fieldwork mechanisms, the number of samples, and the type and number of analyses	2018			√
Clearly define the time limits for the completion of import procedures for all types of food	2018			√

### CURRENT SITUATION

Under a new division of competencies following the adoption of amendments to the Food Safety Law, the Phytosanitary Inspectorate of the Ministry of Agriculture, Forestry and Water Management retained its existing competencies for foods of plant origin. In the import and export stage, the border phytosanitary inspectorate is responsible for controlling food of plant and mixed origin, together with the border veterinary inspectorate. The Sanitary Inspectorate of the Ministry of Health is responsible for the control of new food, food for specific population groups, dietary supplements, food with altered nutritional composition, salts for human nutrition, additives, flavourings, non-animal enzyme preparations and non-animal processing aids, as well as all types of drinking water.

The work of inspection services is regulated by the Law on Inspection Oversight, which entered into force in April 2015 and has been in application since April 2016. Some inspection services are developing models of application of this law; however, full harmonization of sectoral regulations with this Law has yet to be completed.

The Ministry of Health has been in the process of preparing the Law on Sanitary Oversight since 2016, which would regulate in more detail sanitary oversight activities.

### POSITIVE DEVELOPMENTS

Amendments to the Food Safety Law resulted in a reorganization of the division of jurisdiction within the competent inspectorates of both ministries. At the end of 2018, rulebooks on special elements of risk assessment under the remit of the sanitary inspection and the agricultural inspection were published, creating a framework for initiating risk assessment.

### REMAINING ISSUES

Inspectors still have broad authorities, and insufficiently clear guidelines.

The competent inspectorates do not allow the use of raw materials in production before a decision that the raw materials may be released into free circulation is issued, which leads to the loss of time and money.

There are no deadlines for the adoption of some very important executive regulations, for example: a rulebook on the amount of fees for performed official controls, a rulebook on the manner and methods for: conducting an official control, approval, and certification system; cooperation protocols with both the customs authorities and relevant authorities of EU Member States and third countries; the procedures for examination and sampling; criteria for

determining deadlines for conducting official controls and reporting on performed official controls, and a rulebook

on the methods of food sampling and testing in the official control procedure, etc.

### FIC RECOMMENDATIONS

- Adopt a new Law on Sanitary Oversight.
- Adopt enforcement regulations on sanitary and phytosanitary inspection in line with the Law on Inspection Oversight and the EU acquis.
- Recast the Decisions of the line inspectorates to allow the use of raw materials in production without the right to release the finished product into free circulation until the raw material analysis results are obtained.
- Ensure the implementation of uniform rules in the procedures of inspection services, in terms of costs, deadlines, fieldwork mechanisms, the number of samples, and the type and number of analyses.
- Clearly define the time limits for the completion of import procedures for all types of food.

## 3. QUALITY ASSURANCE, DECLARATIONS ON FOOD PRODUCTS, NUTRITION AND HEALTH CLAIMS

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### WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adopt enforcement regulations under the Food Safety Law and harmonize them with EU regulations, such as the Rulebook on food with altered nutritional composition and the Rulebook on novel food.	2017		√	
Adopt the rulebooks on food quality requirements and the rulebook on conditions and methods of production and marketing of food for which quality requirements are not prescribed.	2018			√
Define institutional responsibilities for the interpretation of food safety regulations and ensure mandatory implementation of the official Ministry positioning for all stakeholders.	2016			√

### CURRENT SITUATION

The Regulation on Food Labelling, Marketing and Advertising (RS Official Gazette No 19/2017; 16/2018) (hereinafter: Regulation), adopted on 16 March 2017 and enforced since 15 June 2018 is mostly harmonized with the relevant

European Union (EU) regulation, and the most significant changes relate to the mandatory nutrition declaration, harmonization of rules for the country of origin labelling and for distance selling.

A large number of regulations that prescribe the quality of

certain food categories are incompatible with the EU, out of date, or there are no regulations defining the quality of such food categories in the EU. Such vertical legislation puts food business operators in an unfavourable position compared to producers in countries in the region and the EU. The choice of raw materials for production is limited, and raw materials that are free to use in these countries often cannot be placed on the market in Serbia because they do not correspond to the quality rulebooks even though they meet the health and safety requirements. Often, due to obsolete rulebooks, the appropriate raw material is difficult to find and has a higher price. A similar situation exists with finished products, which do not fit into the categorization under these rulebooks.

## POSITIVE DEVELOPMENTS

In June 2018, the Ministry of Agriculture published a Guide to Food Labelling, Marketing and Advertising, which should enable a uniform approach and interpretation of the provisions of the Regulation for both business entities and control bodies, along with a high level of protection of consumers' interests and better availability of information on products.

In July 2018, the Rulebook on Nutrition and Health Claims was published, and manufacturers were given an 18-month deadline to comply. In December the Regulation was amended to extend this deadline until after January 2020.

The new Rulebook on Fruit Juices Quality, the Rulebook on Cocoa and Chocolate Products Quality, and the Rulebook on Chocolate-Related Products Quality have been published. There is also intensive work on changes to the existing Rulebook on Fruit and Vegetable Products Quality, as well as on the Rulebook on Vegetable Oils and Fats Quality. In this way the Group for Quality at the Ministry of Agriculture has shown understanding for the needs of the economy.

## REMAINING ISSUES

The Law on Food Safety does not define jurisdiction for the interpretation of regulations in the area of food safety, resulting

in the market practice of laboratories interpreting regulations.

This is preventing inspectors, as the designated authority, from making decisions in line with the official position of the Ministry as a regulator. The legal assessment and determination of non-compliance is the exclusive responsibility of inspectors, pursuant to Article 37 of the Law on Inspection Oversight, whereas the official position of the relevant ministry is not binding for inspection services. All of the above creates difficulties for food business operators and major constraints in long-term business planning. This is particularly the case with the interpretation of regulations in the area of labelling, where despite the existence of the Guide there are different approaches and interpretations of its provisions.

Given that the Rulebook's application section is fully harmonized with the EU regulation, the Guide on its application should have resolved the disputed application issues. Although the Guide largely relies on questions and answers that published by the European Commission in "Questions and Answers on the application of the Regulation (EU) N° 1169/2011 on the provision of food information to consumers," it still did not take over all the questions and answers from that document.

Although Article 3 of the Rulebook defines the application of the Rulebook on food intended for end consumers and public catering establishments, the competent inspectorate requires that the raw materials and intermediate products intended for further processing be declared under the Rulebook.

Amendments to the Law on Food Safety stipulate a 12-month deadline for the adoption of executive regulations for the implementation of this Law on Amendments. The most important regulations that need to be adopted to accompany this Law are:

- a rulebook on food quality requirements;
- a rulebook on conditions and methods of production and marketing of food for which quality requirements are not prescribed;
- rules on food with altered nutritional composition.

## FIC RECOMMENDATIONS

- Adopt enforcement regulations under the Food Safety Law and harmonize them with EU regulations, such as a rulebook on food with altered nutritional composition.

- Adopt a rulebook on food quality requirements and a rulebook on conditions and methods of production and marketing of food for which quality requirements are not prescribed.
- Define institutional responsibilities for the interpretation of food safety regulations and ensure mandatory implementation of the Ministry's official positions for all stakeholders
- Ensure a uniform interpretation and application of the Rules and Guidelines on food labelling and advertising.

## B. LIVESTOCK PRODUCTION

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### WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Ensure sustainable development of farm livestock breeding in rural areas, thereby ensuring the fastest and most secure rural development. At the same time this is the least costly state investment in overall economic development as it addresses economic, environmental, production, social, as well as long-term security interests, for the future generations.	2018			√
Subsidies and state aid – budget resources should be allocated to boosting current production, export-oriented production, production of items that are scarce, traditional production; and to the implementation of structural changes in the agricultural sector as a whole	2018		√	

### CURRENT CONDITION

In 2018, the value of realized livestock production in Serbia was estimated at USD 1.794 billion, with a 31.4% share in the overall value of agricultural production.

### POSITIVE DEVELOPMENTS

It is estimated that RSD 51.7 billion will be spent on agriculture in 2019, which is RSD 7.6 billion more compared with the previous year. Also, the budget available for subsidies has been increased by RSD 7.2 billion, to RSD 36.2 billion.

In 2019, cattle breeders should get RSD 5,000 more per head of livestock – RSD 15.000, instead of RSD 10.000, as they have received for many years. The increase in incentives is justified by the fact that Serbia has fulfilled the quota for duty-free exports of beef to Turkey and by the signing of an agreement

with China on exports of pork and dairy products.

### REMAINING ISSUES

- The dairy industry in Serbia is the single biggest budget beneficiary, but the measures either fail to target the most significant problems or they fail to address them properly.
- Lack of education and familiarity with modern trends in cattle production. Technological innovations which help enhance performance in production are very poorly accepted by traditional cattle producers.
- Insufficient and belated support to livestock producers from the agricultural budget.
- Market insecurity, feed price hikes.
- High centralization of state governance and limitation of local governments in the implementation of rural development projects.

## FIC RECOMMENDATIONS

- Organic cattle breeding implies a process of sustainable development of rural areas in accordance with available resources, tradition, and the biodegradable potentials of habitats, and represents rounded and integrated approach to farm, crop and cattle production, which includes the preservation and renewal of natural resources, as well as return to the traditional values and know-how.
- Subsidies and state aid – which would help improve the quality of milk and meat, increase livestock numbers, increase the engagement of members of livestock breeding households, expand the product range with new products, improve product branding, and raise living standards in rural areas.