Food Safety Procedures and Food Law Principles in European Union

Ana Laura NEACSU¹, Maria TOFANA²

¹) S.P.R.L. Menzer & Bachmann – Noerr, Str. General Constantin Budisteanu, no. 28 C, sector 1, 010775 Bucuresti, Romania, e-mail: laura.neacsu@noerr.com
²) University of Agricultural Sciences and Veterinary Medicine, Mănăștir Street, No. 3-5, 400372. Cluj-Napoca, Romania,

Abstract. With a view to adopting a comprehensive, integrated "farm to table" approach, legislation must cover all aspects of the food production chain: primary production, processing, transport, distribution through to the sale or supply of food and feed. At all stages of this chain, the legal responsibility for ensuring the safety of foodstuffs rests with the operator and a similar system should apply to feed business operators.

The White Paper on Food Safety emphasizes the need for a policy underpinned by a sound scientific basis and up-to-date legislation. The EU legislation is designed to restore consumer confidence in the wake of recent food-related crises, with all the interested parties having a part to play: the general public, non-governmental organizations, professional associations, trading partners and international trade organizations.

The European Food Safety Authority (EFSA) enhances the current scientific and technical support system and its main task is to provide assistance and independent scientific advice, and to create a network geared to close cooperation with similar bodies in the Member States.

The recent food crises have shown that it is necessary to improve the procedures relating to food safety. For this reason, the scope of the rapid alert system was extended to cover animal feed and to identify measures to be taken in emergencies and for crisis management. A Standing Committee on the Food Chain and Animal Health is also being set up to replace the existing committees.

Keywords: food law, food safety, EFSA, rapid alert system, crisis management

INTRODUCTION

General food law covers all stages of the food production chain. The general principles of food law were reviewed in 2002, as were the procedures relating to food safety, which apply also to animal nutrition. Controls and monitoring take place throughout the food production chain, "from farm to table". The legislation governing the general principles and harmonized controls also underpins the European Food Safety Authority, a European agency which provides the scientific reference point for food-related control and evaluation. The Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishes the European Food Safety Authority and lays down procedures in matters of food safety.

The objectives pursued by means of food law are:
- Protection of human life and health, and protection of consumers' interests, with due regard for the protection of animal health and welfare, plant health and the environment;
- EU-wide free movement of human food and animal feed;
- Consideration of existing or planned international standards.

Food law is based mainly on risk analysis drawing on the available scientific evidence and under the precautionary principle the Member States and the Commission may take
appropriate provisional risk-management measures when an assessment points to the likelihood of harmful health effects and there is a lack of scientific certainty. Food and feed imported with a view to being placed on the market or exported to a third country must comply with the relevant requirements of EU food law.

The European Union and its Member States must contribute to the development of international technical standards for food and feed, as well as for animal health and plant protection.

**General requirements of food law**

Food must not be placed on the market if it is unsafe, if it is harmful to health and/or unfit for consumption. In determining whether any food is unsafe, account is taken of the normal conditions of use, the information provided to the consumer, the likely immediate or delayed effect on health, the cumulative toxic effects and, where appropriate, the particular health sensitivities of a specific category of consumers. If food which is unsafe forms part of a batch, lot or consignment, the entire quantity is presumed to be unsafe.

At all stages of the food production chain, business operators must ensure that food and feed satisfies the requirements of food law and that those requirements are being adhered to. The Member States enforce the law, ensuring that operators comply with it and laying down appropriate measures and penalties for infringements.

The traceability of food, feed, food-producing animals and all substances incorporated into foodstuffs must be established at all stages of production, processing and distribution. If an operator considers that a food or feed product which has been imported, produced, processed, manufactured or distributed is harmful to human or animal health, steps must be taken immediately to withdraw the product from the market and to inform the competent authorities accordingly. In cases where a product may have reached consumers, the operator must inform them and recall the products already supplied.

**European Food Safety Authority (EFSA)**

A European Food Safety Authority ("the Authority") will provide scientific advice and scientific and technical support in all areas impacting on food safety. It constitutes an independent source of information on all matters in this field and ensures that the general public is kept informed.

Participation in the Authority is open to the Member States of the European Union and to other countries applying EU food safety law. The Authority is endowed with legal personality. The Court of Justice of the European Communities has jurisdiction in any dispute relating to contractual liability.

**The Authority’s tasks**

In the areas within its sphere of competence, the tasks of the European Food Safety Authority are as follows:

- To provide the European institutions and the Member States with the best possible scientific advice on its own initiative or at the request of the Commission, the European Parliament or a Member State.
- To promote and coordinate the development of uniform risk assessment methods.
- To provide scientific and technical support to the Commission. The Authority will also provide scientific support in connection with crisis management.
- To commission scientific studies necessary for the accomplishment of its mission, whilst avoiding any duplication with European or national research programs.
To search for, collect, collate, analyze and summarize scientific and technical data in areas relating to food safety (exposure of individuals to risks arising from consumption of foodstuffs, biological risks, contaminants and residues).

To take action to identify and characterize emerging risks.

To build up European networks of organizations operating in the field of food safety. The Authority will participate in the rapid alert system linking the Commission and the Member States.

To provide, at the request of the Commission, scientific and technical support aimed at improving cooperation between the Commission, international organizations and third countries.

To ensure that the general public and other interested parties receive reliable, objective and comprehensible information.

To express its own conclusions and ideas on matters within its remit.

**Organization**

The main components of the Authority are:

- **Management Board**

  The 14 members of the Management Board are appointed by the Council, in consultation with the European Parliament, from a list drawn up by the Commission. Four of the members are required to have a background in consumer organizations and other interests in the food production chain. The Commission is represented on the Management Board. The Management Board must ensure that the Authority performs the tasks assigned to it under the conditions laid down in the founding Regulation.

- **Executive Director**

  The Executive Director is appointed by the Management Board, on the basis of a list proposed by the Commission, for a period of five years which may be renewed for a period not exceeding five years, and is the legal representative of the Authority. The Executive Director is responsible mainly for the day-to-day administration of the Authority and for implementation of the budget.

- **Advisory Forum**

  Comprising one representative per Member State (representing national bodies responsible for risk assessment), the Forum advises the Executive Director in the performance of the latter's duties, particularly in connection with drawing up the work program and prioritizing requests for scientific opinions.

- **Scientific Committee and Scientific Panels**

  The Scientific Committee is composed of independent scientific experts appointed for three years by the Management Board on a proposal from the Executive Director. They are responsible for adopting the Authority's scientific opinions within their respective spheres of competence.

  ➢ **Scientific Committee**

  Composed of the chairpersons of the scientific panels and six independent experts. Responsible for general coordination with the scientific panels, it may also organize public debates and set up working groups on matters which do not fall within the competence of the scientific panels.

  ➢ **Scientific Panels**

  The Scientific Panels are:
  - Panel on additives, flavorings, processing aids and materials in contact with food;
  - Panel on additives and products or substances used in animal feed;
- Panel on plant protection products and their residues;
- Panel on genetically modified organisms;
- Panel on dietetic products, nutrition and allergies;
- Panel on biological hazards;
- Panel on contaminants in the food chain;
- Panel on animal health and welfare;
- Panel on plant health.

The Executive Director and the members of all the bodies of the Authority undertake to act independently in the public interest and the Authority will carry out its activities with a high level of transparency. The Authority must ensure that the public is given objective and accessible information. The decisions it takes pursuant to Regulation (EC) No1049/2001 regarding access to documents may form the subject of a complaint to the Ombudsman or an action before the Court of Justice.

**Procedures Relating To Food Safety**

- **Rapid alert system**

  The rapid alert system now covers all foodstuffs and animal feed. The network involves the Member States, the Commission in a management capacity and, innovatively, the Authority as a member of the network. By means of this rapid alert system, the Member States notify the Commission, which immediately transmits the information throughout the network, of:
  - any measure aimed at restricting the placing on the market or forcing the withdrawal or recall of food or feed;
  - any measure involving professional operators aimed at preventing or controlling the use of food or feed;
  - any rejection of a batch or consignment of food or feed by a competent authority at a border post of the European Union.

  Information concerning a food-related risk which is disseminated within the rapid alert network must be made available to the general public.

- **Emergencies**

  Where food or feed originating in the EU or imported from a third country is likely to constitute a serious risk to human health, animal health or the environment, and the risk cannot be controlled by measures taken by the Member State(s) concerned, the Commission is to adopt immediately, on its own initiative or at the request of a Member State, one or more of the following measures, depending on the gravity of the situation:
  - for products of EU origin: suspension of the placing on the market or use of the product in question, imposition of special conditions and adoption of any other appropriate interim measure;
  - for products imported from a third country: suspension of imports, imposition of special conditions and adoption of any other appropriate interim measure.

  Such measures are adopted by the committee procedure (Standing Committee on the Food Chain and Animal Health). However, in emergencies, the Commission alone may provisionally adopt the necessary measures, after consulting the Member State(s) concerned and informing the other Member States. In such a case, the provisional measures in question must, within 10 working days at most, be confirmed, amended, revoked or extended in the context of the Standing Committee on the Food Chain and Animal Health.
When a Member State officially informs the Commission of the need to take emergency measures and the Commission does not act, the Member State may take interim protective measures. It should immediately inform the other Member States and the Commission thereof. Within a period of 10 working days, the Commission must refer the matter to the Standing Committee on the Food Chain and Animal Health with a view to extending, amending or revoking the national interim protective measures.

- **General crisis-management plan**

  In close cooperation with the Authority and the Member States, the Commission is required to draw up a general plan for crisis management, specifying the situations entailing direct or indirect risks to human health not provided for by the Regulation, and setting out the practical procedures necessary for managing a resultant crisis.

  When a situation involving a serious risk cannot be dealt with under the existing provisions, the Commission must immediately set up a crisis unit, in which the Authority participates by providing scientific and technical support. The crisis unit is responsible for collecting and evaluating all relevant information and identifying the options available for preventing, eliminating or reducing the risk to human health (Commission Decision 2004/478/EC).

- **Standing committee on the food chain and animal health**

  A Standing Committee on the Food Chain and Animal Health, composed of representatives of the Member States and chaired by the Commission representative, is organized in sections to deal with all the relevant matters.

  The Standing Committee on the Food Chain and Animal Health was set up to assist the Commission in the preparation of measures relating to foodstuffs. It replaces a number of existing committees in order to ensure a more effective, comprehensive approach to the food chain. In order to improve the procedures relating to food safety, this Regulation establishes the Standing Committee on the Food Chain and Animal Health, hereinafter referred to as the “Committee”. It replaces the following existing committees: the Standing Committee on Foodstuffs, the Standing Committee on Animal Nutrition and the Standing Veterinary Committee. It also takes over certain tasks of the Standing Committee on Plant Health.

  **CONCLUSIONS**

  In EU legislation, reference to the European Food Safety Authority will replace every reference to the Scientific Committee on Food, the Scientific Committee on Animal Nutrition, the Scientific Veterinary Committee, the Scientific Committee on Pesticides, the Scientific Committee on Plants and the Scientific Steering Committee.


  The Authority issues scientific opinions, pursuant to EU legislation, when requested to do so by the Commission, the European Parliament or a Member State, and it may also issue own-initiative opinions. It establishes a register of all requested opinions and own-initiative opinions. The circumstances in which requests for opinions are refused, accepted, amended or combined are specified. The requesting party may stipulate a deadline for the delivery of the required opinion.
In cases of clear urgency, the Authority will take all the necessary measures to ensure that a requested or own-initiative opinion is delivered as soon as possible. There are two scenarios indicating urgency: an emerging risk likely to constitute a serious risk to human or animal health or the environment; an urgent need on the part of the Commission for a more detailed scientific basis for managing a serious risk.

REFERENCES


