



Project no.
02/MAC/01/06/001

Техничка помош за изработка на трговски закони

Technical Assistance to draft Trade Laws

An EU-funded Project managed by the European Agency for Reconstruction



Consultant: Thalés E&C - Ghelber Law Firm

Market Surveillance

Study Mission Report
Austria-Slovakia-Czech Republic
23-30 November 2003



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1. EXECUTIVE SUMMARY

The development of consumer and competition policies is an essential corollary of the progressive integration to the EU internal market. The free circulation of goods and services requires the approximation of legislation to ensure at the same time (a) sufficient protection of consumers and (b) the elimination of regulatory obstacles and competitive distortions. Market surveillance is an essential tool for the enforcement of such a legislation. The DTL Study Missions are therefore organized with the purpose to familiarize civil servants with market surveillance in the framework of EU legislation and procedures. This first Mission was conducted in a country already member of the EU – Austria- and in two other countries joining the Union on May 1st 2004: the Czech Republic and Slovakia. The future missions will also be conducted to **help achieving integration of consumer and trade concerns into the law-approximation process**. This approach corresponds to the objectives of the DTL Project as described in its texts and in the recommendations of all its experts. It seeks to maximise the benefits of future accession into the single market for the consumers as well as for the business community.

The rationale of this first Study Mission was, in particular, to increase the:

- **Participation** of Market inspectors in the law- making process as they are direct observers and actors of implementation issues;
- **Modernization** and rationalisation between the entities involved in Market Surveillance activities.
- **Support** to the approach, concepts and reform promoted by the Ministry of Economy to streamline various inspection services by re-grouping and partly transferring functions to the Market Inspectorate.

The Mission provided a wealth of comparative experiences useful for better market functioning and trade laws enforcement. It also deepened and clarified the DTL Experts recommendations (including J. Poyer, N. Wimmer, F. Souty, L. Hahn) such as:

- Surveillance of unfair-competition;



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- Training and specialising inspectors
- Regrouping in sectoral topics;
- Providing options to solve issues of administrative capacities. The Study Mission also helped clarify the reform's cost and benefit, the EU regulatory impact in other countries and the requirements of such attempts. Options to enhance the strategy, function and structure of the SMI are suggested for further discussion.
- Prepare into being involved in the implementation of the revised general product safety directive, in particular through the participation in the reinforced 'rapid alert system' (RAPEX).

2. OBJECTIVES

The DTL Project conceived this Study Mission with the overall goal to better answer to the SMI needs, gaps and challenges and to familiarize Inspectors and other direct stakeholders with the current legislation, practices and situation in the field of market surveillance in EU Member States and in candidate countries. The general objective was **to enhance market surveillance** and market inspection activities and to provide comprehensive comparative information.

The specific objectives included:

2.1 Overview of market surveillance (excluding financial markets) activities:

- Legal background and organizational structures;
- Changes incurred based on adoption of EU Legislation and related experiences;
- Inter-ministerial taskforces or working groups for co-ordination and co-operation between various sectors.

2.2 Overview of the Market Inspection organization in regard to:

- Organization and geographic distribution;
- By-laws & regulations defining the task/job of inspection ("book of rules");



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- Investigation and decision making procedures;
- Staff qualification & internal education and career path;
- Methodology for (monthly/quarterly) inspection plans and reports.

2.3 Visit of field offices and focus on:

- Internal organization and procedures;
- Means of information flow & management/ IT solutions;
- Practical distribution of work, division of tasks between specialized staff/experts.

3. PROGRAMS AND AGENDA

Sunday 23/11 Arrival Vienna Airport – transport to Hotel

Monday 24/11 Vienna

- General overview of the food control as a part of market surveillance activities.

Tuesday 25/11

Vienna Trade Inspection

- Visit of the wholesale market and overview of Inspection activities on products entering and leaving the market.
- Meeting in the central office of the Viennese trade inspection.
- Travel to Bratislava

Wednesday 26/11 Bratislava

- Meeting in the Slovak Ministry of Economy and presentation of the ministerial (governmental) organization of the market surveillance and market inspection.
- Presentation of the Ministry of Agriculture and the food control and food inspection.
- Meeting in the Trade Inspection and presentation of the Slovak experiences.



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Thursday 27/11 Brno-Prague

- Travel to Brno. In Brno meeting with Czech agricultural inspection (CAFIA) responsible for all food controls except for the products from animal origin.
- Travel to Prague. Meeting in the Ministry of Industry and trade and discussion on the ministerial organization of the market surveillance activities.

Friday 28/11 Prague

- Meeting in the Czech trade Inspection responsible for the non-food inspections.
- Meeting in the Ministry of Agriculture and presentation of the ministerial organization of the food control and inspection activities.

Saturday 29/11

- Roundtable and discussion on the comparative experiences discovered, on lessons drawn and of pros/cons to the future implementation into the proper context.

Sunday 30/11

- Travel to Vienna and to Skopje

4. OBSERVATIONS

4.1 Similarities and differences

Based on the detailed observation of these three countries the Participants agreed that each (member or candidate country) had a functional set up which seems to provide correct and consistent implementation of the norms included in the EU regulations. However there is not a unique and fully similar institutional setup established to implement the EU legislation. In addition and having in mind the vast scope of European legislation, different legislative areas cover market surveillance. The **norms** covering the market surveillance and market inspection are usually drafted in the areas of **food safety**,



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veterinary (food of animal origin), **product safety** (safety standards for products other than food, technical conformity), **phyto- sanitary** (plants and food and products of plant origin). Consequently the **organizational and institutional set- up** for market surveillance and inspection is organized differently in the member states/ candidate countries.

Another important aspect in the EU market surveillance is the **communication** with the public and the **information systems for early notification**/ rapid alert. Communication is a key element in the consumer's protection dimension of market inspection activities. It enables to have informed consumers, knowing their right and obligations, clearly contributing to the market surveillance from the point of products and services users. In order to protect consumers EU Member States have developed early notification/ rapid alert systems informing on movement of dangerous and hazardous products. This tool has proved to be effective in preventing dangerous products entering the EU member states and the candidate countries¹.

The last striking aspect observed was the **laboratory system** available for consistent, early and sustainable market surveillance. Here the only aspect regulated on the EU level was the necessity of accredited laboratories for doing analysis according to the EU standards. Therefore in all of the visited countries the EU emphasis was on the accredited laboratories, while the organizational set-up was left for the national provisions.

5. COUNTRY BY COUNTRY EXPERIENCE

In order to get a comprehensive picture of the market surveillance and of inspection activities in the EU member states/ candidate countries, the study mission involved visits the main administrations in charge of managing and/or coordinating market surveillance

¹ The full EU system is not yet made available for the candidate countries. They are using transitional systems. After their entering into EU (May 2004) the system will be fully available.



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and inspection services (dependant from food/ non food controls). Visits tend to follow a top-down approach – Ministry, Food & Non Food Inspection services.

5.1 Austria

The general characteristic of the Austrian case was the umbrella law system set by the **1975 food law**. It sets the frame for the food control activities by three ministries: MoHealth, MoAgriculture and MoEconomy. These ministries are respectively responsible for implementation of **82 by-laws** originating from this food law. Drafting so- many by laws is the result of national needs but also of the necessity to align the national legislation with the one of the EU. In regards to implementation decentralization is a guiding principle as Austria is a federal State. As a result the market surveillance and inspection involves different levels from the responsible minister- to the Land (Province) governor and then the market/ trade inspection. Consequently the reporting system is the other way back. The principle of independence was mentioned to be a very important element in the implementation of activities by the Vienna trade inspection. This independence is reached among others by the way of annual agreements concluded between the Land governor (mayor) and the institution responsible magistrate. The agreement determines the nature and scope of the activities to be performed during the year. Even though this system produces some pressure on the inspection the contract protects the inspection from external (political) influences. In addition to this the binding nature of the inspection decisions provides an additional attribute to the inspection's independence. But it is important to stress that the inspection intention/ activities are primarily to provide advisory assistance instead of being simply a repressive institution. From the point of view of the institutional set-up the existence of a **Food Safety Agency** established in 2002 facilitates the coordination of the inspections and of laboratory services. Samples taken by the Inspection are analyzed in the network of laboratories owned by the Ministries of Health and Agriculture.

5.1.1 Working practice remarks



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*It is important to outline the system of delegated obligations, from the federal Ministry directly to the governors of the provinces.. In this scope the **Viennese Market Inspection** was the most interesting case as it provides for the integration of both, food and non-food sectors, resulting in a very effective inspection body and a reduced overhead on both sides – inspection and market operators. In Vienna e.g. a restaurant is only visited once by one inspection (team) that **controls all segments** – from municipal aspects (e.g. rent for pavements used as summer garden) to food / sanitary, pricing and security issues. In the other countries this would result in a minimum of 3 visits by different authorities. A remark was made by outsourced private laboratories, which obviously do compete: to regulate the prices for lab examinations.*

The overall market size of Vienna - with approximately 2 million inhabitants and more operators than in the Macedonian market –increases the interest of the comparative experience. From an internal organizational point of view there is:

- *the Central Administration with sectoral and administrative departments*
- *the 'local' market inspection offices for the 23 Districts of Vienna.*

5.2 Slovak Republic

The main conclusion for the market inspection activities in the Slovak republic is that they are performed in close and good cooperation between different responsible ministries. Inspection activities are divided between the food and non-food activities. The Ministry of Agriculture is responsible for the food inspections, while the Ministry of Economy is responsible for the non- food inspections.

The non-food inspection exists within the Ministry of Economy but is organized as an independent body. It is responsible for the implementation of 18 laws and a number of by-laws. Inspections are performed following the four eyes principle and the inspectors' identity is protected by the presentation of only their official ID inspection number. There are specialized inspectors focusing on certain groups of products. Procedural rules are prescribed in an (80 pages) inspection manual, which every inspector knows and uses regularly. Slovak trade inspection is also under continuous training programs that usually



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end up with tests/exams and are used for official's evaluation/ carrier progress. The major scope of the Slovak trade inspection is on product safety, conformity of the products and unfair competition. Inspectors also participate in legislation drafting activities either as a body that initiated the law-making process or that was consulted. In order to ensure the effectiveness of this independent institution its decisions are binding as those of the judiciary.

5.2.1 Working practice remarks

In SK there is a top-down organization that subordinates all market surveillance and competition activities under the auspices of consumer protection (CP). Thus the office for CP is the coordinating body between ministries as well as towards NGOs dealing with the subject. Sectors are split between food (Ministry of Agriculture) and non-food (Ministry of Economy) and so are inspection services.

The market inspection controls the non-food products through two departments:

- *Department for control of technical products and their security*
- *Department for consumers protection*

Risk assessment is among the Inspectorates activities, starting from the fact that every product by its nature may presents certain risk. In this function the Inspectorates also uses information obtained by the Agency for Technical Conformity.

5.3 Czech Republic

Market surveillance in the Czech Republic is allocated to different ministries. Generally the Ministry of Agriculture is responsible for the food aspects while other ministries are following the non-food products. The institutional set-up is very much concentrated on the consumer protection dimension but contrary to Slovakia, an inter-ministerial task force provides for the coordination. This is based on the advanced stage of 'outsourcing' process of consumer's protection issues to NGOs and to the private sector. The inter-ministerial task force is coordinating all the consumer's protection aspects at the governmental level. The Czech Republic has implemented all the EU provision regarding



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the consumer's protection and now the focus is on the EU program for consumer's protection reforms that will delegate responsibilities from the state authorities to the private sector (producers, traders etc.). In this regard the Ministry of trade and industry (as steering wheel in the market surveillance and inspection activities) also has established cooperation with different NGOs that significantly contribute towards better consumer protection.

As stated above, the Ministry of Agriculture is responsible for the food aspect of the market surveillance and market inspection activities. The Ministry coordinates 21 laws and 18 by laws. It is also responsible for the risk control and national product promotion. The Inspection controlling the food and food products (except the meat) is located in Brno (CAFIA). This inspection is highly equipped and mobile. Except the inspection activities Czech Agricultural inspection is consulted often by the Government/ Parliament as an advisory institution. As a result the inspection has a right to initiate drafting of legal acts. There are continuous training programs which also covers the use of the highly sophisticated equipment. The inspections' decisions are binding as those of courts.

The Trade inspection, functioning within the Ministry of Trade and Industry, is the body responsible for supervising non- food products. It covers the conformity and safety of products as well as unfair competition and consumer contracts. Its decisions have the force of court decision.

5.3.1 Working practice remarks

The trade inspection competences are based on the following laws: Law on Trade Inspection, the Law on Consumer Protection, the Law on Wholesome of Products, Law on Security of the Products, Law on Packing, Law on Consumer Credits, Law on Protection Against Forgery of Trademarks and Brands.

An important activity of the Trade Inspection is the quality control of the products stated in the declaration.. The Inspection also controls the products' origin.. When illicit



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trade activities are performed in the markets, the Inspection is authorized to seize the products, and can even make void the products if they are not in accordance with the prescribed quality. Another feature is that in second level for the Inspectorate Decisions, the Principle is authorized to decide.

The NOTIF system is introduced, which supervises the products subject to control where they show certain flaws.

6. Conclusions

6.1 Implications

At the light of the Study Mission and the analysis of the comparative experiences the 1st cluster of issues to be addressed is common to many inspectorates, agencies and bodies in the FY Republic of Macedonia: **independence, transparency and accountability**. This needs to be addressed at several levels, including:

- Internal procedures, Reporting and qualification systems
- Human Resources Development: staff management, recruitment etc
- Binding decisions and an effective appeal system (administrative procedures).
- Market surveillance should be aware and respect the principle of proportionality.

The 2nd issue is the need to **merge** some inspection services in order to achieve a better scale of economy, which most possibly might be driven by the following sector parameters:

- Trade inspection related **to non-food products/ Food and phyto-sanitary inspection** / Keeping veterinary issues separated
- Laboratories as independent service providers arranging/maintaining laboratories (state or private) most possibly as separate entities, but with regulated prices for services related to official issues and examinations .



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- Adding investigation function related to Competition issues (at least for unfair competition)

The 3rd issue results from the above and deals with **organizational changes** required to cover whatever model chosen. This will most possibly include:

- New management structures – e.g. additional layer for food/non food sectoral segmentation
- Specialized and trained inspectors for individual sectors (food/non food/trade/competition.... issues)
- (Re) drafting of internal rules and procedures accordingly
- Introduction and application of ‘early warning system’ (such as TRAPEX...)
- Transition from reprimanding to a consulting service character that should help to guide business & economy towards quality, European and international compatibility – thus competitiveness

The 4th issue - strategically the highest- should be the subordination (management and monitoring) of all market surveillance issues to a **consumer protection** agency (or system, as in an advanced stage functions could be shared between public institutions and associations / NGOs).

6.2 Recommendations for an initial Action Plan and its implementation steps (as discussed on the *Study Mission feed-back workshop (SMFW)*² held on January 12th 2004

In order to ensure compliance with the EU relevant Directives -which state among others:

Article 9 (Directive 2001/95/EC General Product safety)

1. In order to ensure effective market surveillance, aimed at guaranteeing a high level of consumer health and safety protection, which entails cooperation between their competent authorities, Member States shall ensure that approaches employing appropriate means and procedures are put in place, which may include in particular:

² EU Experts recommendations are attached as Annex 1 of this report



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- (a) establishment, periodical updating and implementation of sectoral surveillance programmes by categories of products or risks and the monitoring of surveillance activities, findings and results;*
 - (b) follow-up and updating of scientific and technical knowledge concerning the safety of products;*
 - (c) periodical review and assessment of the functioning of the control activities and their effectiveness and, if necessary, revision of the surveillance approach and organisation put in place.*
- 2. Member States shall ensure that consumers and other interested parties are given an opportunity to submit complaints to the competent authorities on product safety and on surveillance and control activities and that these complaints are followed up as appropriate. Member States shall actively inform consumers and other interested parties of the procedures established to that end.*

the SMFW participants had considered the following:

An integrated Consumer Protection system

The MoE in consultation with all stakeholders should develop an integral strategy for market surveillance including competition issues. It could be developed according to different institutional options: (a) by a specific and strengthened department within the MoE (b) an independent Agency (c) a network of entities working in close cooperation and synergy. Whatever the set-up chosen it should enhance policy definition in consultation and participation of all stakeholders. This entails among others: (a) review of mechanisms for participation of consumer organisations in policymaking (b) coordination of activities and control of the market regulation effectiveness (c) the setting up of education and capacity-building projects.

The Study Mission offered modern experiences of such regimes (the Slovakian being most relevant according to most participants). In addition to the implicit obligations contained in the EC Treaty, the New Approach directives contain an explicit requirement for Member States to carry out market surveillance activities. **The principle of subsidiarity** applies, and it is for the States to determine the administrative structures used to fulfil their obligations in this field. The capacities of different actors of Market surveillance should be taken into account.



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Inspectorates

Administrative set up and procedures

Find an acceptable way and methodology for independence, especially when it comes to binding decisions issued by such institutions– most possibly without amending the constitution. However, given the many sectors that are impacted by the existing weakness of administrative procedures, a change in the constitution (by now it is said to stipulate that only court decisions are binding) would be of benefit for the many regulatory bodies, which should have jurisdictional character (of a quasi ‘magistrate’).

Staff recruitment at all levels of an SMI shall be made upon transparent selection criteria and for senior management positions asynchronous (where necessary) to government terms. Evaluation and possible dismissal of senior functionaries shall be subject to parliamentary commissions – most possibly in a grouped (less overheads) system for the economic sector.

Rationalising market inspection

The “Integrated market inspection” should follow a matrix type of organization, in which the head of operations remains responsible for all sectors – as should be the head of regional offices. Below them there should be “sectoral managers” responsible for the overall strategy per sector on “Head Quarters” level plus a senior inspector at regional office level representing the individual sector from know how and internal coordination point of view. Otherwise the education and training system should foresee core/horizontal competence for all inspectors plus dedicated training and skills for business/sectors as individual specialization.

The SMI should not limit its activities to monitoring products placed on the market, and to taking the necessary corrective actions. Increased contacts and cooperation between the authority and the manufacturers and suppliers may help in preventing the placing on the market of non-compliant products. For instance, the authority can provide general advice and guidance to the economic operators on the application of the directives. Further, the authority should also contribute raising the awareness of consumers and other users, for example on issues relevant to their health and safety.



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Technical tasks

The surveillance authority may subcontract technical tasks (such as testing or inspection) to another body, provided that it retains the responsibility for its decisions, and provided there is no conflict of interest between the other body's conformity assessment activities and its surveillance tasks. In doing so the authority should exercise great care to ensure that the impartiality of the advice it receives is beyond reproach. The responsibility for any decision to be taken on the basis of such advice shall reside in the surveillance authority. As a general rule, it is inappropriate for notified bodies to be responsible for market surveillance. In order to avoid a conflict of interest it is necessary to make a clear distinction between conformity assessment (which takes place before the product is placed on the market) and market surveillance (which takes place after the product has been placed on the market). As an exception, where a notified body and a market surveillance authority come under the same superior authority in a Member State, the lines of responsibility should be so organised that there is no conflict of interest between these activities.

Standardisation and Conformity Assessment

In order to help enforcement Projects should make best use of resources and ensure a consistent approach on cross-cutting issues and of data-bases for unsafe products. The laboratories should at the initial stage stay under state control and most possibly serve all technical issues incl. veterinary examination in order to maintain scale of economy, considering the rather small domestic market. Notwithstanding these laboratories should achieve certificates in line with EU standards. Learning from the experience of other countries prices should be regulated for services especially in case there are more laboratories on the market providing the same service and/or already privatized at an advanced/later stage.



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Issues which need to be further considered in the next Study Missions include:

1. **Labelling issues:** Private schemes, such as codes of conduct, guidelines and private, voluntary labelling, that aim at informing consumers about the origin, production and potential impact of the product in question can complement public policy measures, in view of promoting sustainable development. How can the MoE Commission develop a dialogue with consumer organisations to this end and promote consumer participation?.

2. Redress

Consumers need assurance that if things go wrong they have effective mechanisms to seek redress. Access to courts and **out-of-court mechanisms** for resolving disputes are therefore necessary to facilitate more effective access to justice for consumers. Where cross-border disputes arise, resorting to traditional litigation is not always practical nor cost effective for consumers and business alike. The Commission has adopted two Recommendations on the principles applicable to the bodies responsible for the out-of-court settlement of consumer disputes (98/257/EC, OJ L 115, 17.4.1998, p. 31) and on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes (2001/310/EC, OJ L 109, 19.4.2001, p. 56).

3. **Progressive integration in EU systems (by twinning projects and Cross-border market surveillance).** A programme should be developed to support cross-border market surveillance projects which promote co-operation between authorities and to spread best practices in the medium term.. Activities that would be eligible for support include: joint inspections, development of control methodologies and risk analysis, sharing of test results, information exchange, joint events and cooperation through telematics.

4. Services of general interest (SGI)

Services of general interest are defined in the Commission communication on 'Services of general interest in Europe' (COM 2000/ 580 of 20 September 2000) as being services



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which the public authorities class as being of general interest and subject to specific public service obligations. They cover such areas as **transport, energy (electricity, gas), telecommunications and postal services** (Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002, 'Universal Service Directive', OJ L 108, 24.4.2002, p. 51). A guarantee of **universal access, high quality and affordability** of these services constitutes the basis of the consumer needs as well as other obligations to accompany the liberalisation process. The Commission report on services of general interest to the Laeken European Council (COM 2001/598 of 17 October 2001.) announced the Commission's intention to produce a regular series of reports monitoring market performance in this field. The Commission will also produce a **communication defining a methodology to conduct horizontal evaluations of services of general interest**. This methodology will pay special attention to consumers' views on the performance of these services.

5. Data protection.

New Approach directives include certain provisions that require Member States to inform the Commission or the other Member States, but they usually say nothing on the confidentiality or transparency of information obtained during market surveillance operations. Consequently, rules on confidentiality are based on the national legal systems, and therefore vary between Member States. However, information on activities underway that concern individual economic operators should generally be considered as confidential. An exception to this may be justified where the health and safety of consumers is subject to serious and immediate danger.

6. Impact assessment

Establishing a comprehensive impact assessment mechanism ensuring that the impact on consumers' economic interests (in terms of price, choice, quality, affordability, accessibility and market transparency and fairness) is properly taken into account in relevant legislative and policy initiatives is essential to fulfilling the obligations of Article 153(2) of the Treaty. The development of a comprehensive impact assessment



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mechanism, as recognised by the White Paper on Governance (1) and the Commission communication on better regulation (2) is therefore essential:

- Surveys on business and consumer attitudes to cross-border trading
- Effective cross-border co-operation between market surveillance authorities is essential if products are to be subject to the same high level of surveillance throughout the Union. However, experience of market surveillance in practice indicates that levels of surveillance currently vary significantly throughout the Region.
- **Participate in** forums that enable national market surveillance experts to meet and cooperate on practical matters. They have a fundamental role as a network for practical-cooperation: experts can identify and share views on problems with implementation of a Directive (for example, low voltage, electromagnetic compatibility, machinery, personal protective equipment, recreational craft, lifts, toys, radio and telecommunications terminal equipment and construction products), exchange information and improve co-operation in a very practical way.



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ANNEX 1

Report on the Progress of Market Control

in the Republic of Macedonia

(ing. Andreas Mueller)

January, 2004



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Report on the Progress of Market Control in the Republic of Macedonia

1. Introduction

The relatively short stay of 4 days in the Republic of Macedonia was completed by information conversations, discussions and one workshop. This gave an inspection in the administration and realization of the market control measures.

At the beginning we should conclude that the merge of the agendas for consumer protection into one supervisory, monitoring authority is considered adequate. Apart from food safety, we can also include product safety, as well as the bigger part of the regulations from the Law on Trade.

The most important criteria are the following:

1. Concentration on competencies and knowledge
2. Central contact persons for consumers and economy
3. Reduction of the expenses.

In order to install a functional and successful inspectorate, according to the rules of the EU, important additional measures are necessary, i.e. amendments of the current manner of operation and the division of the work in the Republic of Macedonia.

2. Food and Product Safety as Totality for Consumer Protection

At the moment, there are different institutions in the Republic of Macedonia with different official decision making entities and competencies that overlap. This is not only related to the establishment of the new Agency, but also to the Market Inspectorate, the Sanitary Inspectorate and the laboratories.



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An EU-funded Project managed by the European Agency for Reconstruction



Consultant: Thalés E&C - Ghelber Law Firm

In future, the competencies of the Agency in the Republic of Macedonia should be similar to those of the “European Food Safety Authority” (EFSA), which was established by the EU.

It represents an organization that performs risk assessment and risk communication. In order to accomplish the previous, it uses European scientists, forms networks, includes universities, and conducts coordination of fields of science on a national level. All this is for that purpose, collection of data, studies and knowledge in order to conduct risk assessment from their breeding until they are put on the table (sawing, nourishment and production).

This is not an institution with legislative or executive power. In order to be detached from political influences and in order to operate independently, a Council was established, which should guarantee the above mentioned. All discussions and decisions are publicly exposed from the very beginning. Still, the so called “stakeholders” (representation of the interests) are not included.

After conduction of the risk assessment, the risk management shall be at the political institutions. EFSA is competent for the risk communication, even if that is against the will of policy.

The newly created Agency in the Republic of Macedonia should exist on this level, also as a consulatory institution.

All other EU directives that are related to this matter should not be excluded when structuring of the tasks is performed, relating consumer protection.

An important principle is that the subjects, who are competent for commissioning the food and cattle food, are also responsible for introduction of only safe products on the market, and for removal of unsafe products from the market. In order to accomplish the



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above mentioned, regulations for monitoring of all foodstuff products should be developed, including previous period, as well as for the additional parts of the same, and to appoint the monitoring service with the necessary executive authority. Furthermore, emergency procedures should be developed.

These regulations, apart from the system for rapid warning of the food, a system for the cattle food has been created, by inclusion of information for contaminated cattle food in the current system for rapid warning. This provides fast communication between countries members of the EU for dangerous substances, which shall be in products, as well as their possible removal from the market.

An important issue for food monitoring, i.e. the products on a national level, shall be the existence of a functional system for objectivity that can be confirmed, transparency and monitoring of its previous activity.

In order to meet the requirements, during my visit as an expert I noticed the following problems:

- I. At the moment there is no mutual platform for coordination between the interested sectors at the Ministries of Economy and Health.
- II. The task and content of the legally established Agency for food is not well cleared at the moment.
- III. The division of the work, competencies between the SMI, the Sanitary Inspection and the Agency for Food are not regulated, except for the purely informal contacts on operative level.
- IV. It is necessary to merge the agendas for monitoring and supervision. At the moment, there are different competencies for monitoring of food in retail trade, gross trade, at the producer, as well as at the importers.



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- V. The implementation of the usual regulations of the EU for food and product safety is missing, an example for that are the following issues:
- The supervision of the concepts for personal monitoring,
 - Supervision of the “Good Hygiene Practice”,
 - Monitoring of goods,
 - Sampling for the purposes of the strategy in Health,
 - Monitoring of the goods in the previous period.
- VI. There is no transparent structure and competencies of the research laboratories.
- VII. There is no division of the work, i.e. the competencies for the following:
- Risk analysis
 - Risk assessment
 - Risk management
 - Management in case of obligation to give reports to the EU
 - Management in case of calling Rapid Alert
 - Understanding and realization of management.

At last, it should be emphasized that the following basic framework should be established before conduction, i.e. structuring of the organization for consumer protection (food safety, product safety, trade law):

- Transparency

As well as the administration, the appropriators too, should consider the possibility to provide third parties with greater inspection in their activity in the process of preparation of the instructions for operation and the measures for assuring quality.

- Objectivity



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Through adequate measures such as providing quality, training, post-qualification, as well as use of adequate software the biggest possible objectivity of the authority may be created.

- Monitoring of the previous period

On the one hand to be able to remove the product from the market in the chain of production, i.e. trade, at any time, and on the other hand to be able to monitor the activity of the service.

3. Attitudes:

At this moment a final assessment or strategy for the future manner of operation cannot be given, due to the fact that there are inputs missing. As our next target we should do the following:

- 3.1 Perform comparison between the rules of the EU and the current standard in the Republic of Macedonia,
- 3.2 Undertake measures and support in the merge of the operative sectors,
- 3.3 Strengthen the motive for creation of inter-sector platform for communication and management.
- 3.4 Try to convince the Republic of Macedonia to include social partnership in legislation. This (as it was confirmed by the experience of Austria) even before adoption of a law shall insure consensus, which shall serve as a basis for the law or other regulations, as well as prevention of unnecessary inconveniences. It was presented that inclusion of the social partners (NGOs, and representatives of the interests of the industry, trade, etc.) on different levels (work groups on a ministry level, codex, drafting laws) is an important guarantee for rapid implementation.



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Reports on analysis of the statistic data and the educational system, which were made available by the Market Inspectorate, shall follow after the second mission of the study, at the end of February.