



Georgia-EU Legal Approximation Process in terms of Food Safety Regulations COVID19's Effect on the Approximation Process and FBOs

AUTHORS:

Daviti Zhorzholiani

Nino Kakulia

DISCLAIMER:

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Introduction

On June 27, 2014, Georgia signed the EU-Georgia Association Agreement (AA), and the Deep and Comprehensive Free Trade Area (DCFTA) as a part of it; and committed to gradually approximate national legislative system to the EU's legislation. The agreement, among other, addresses the topics related to sanitary and phytosanitary measures, technical barriers to trade, state procurement, customs regulation, trade with services, etc. It is meant strengthen the Georgia-EU cooperation in food safety issues, boost domestic export in the EU, provide domestic consumers with high quality food products, protect animal and plant health, and guarantee full transparency of trade-related sanitary and phytosanitary measures.

Sanitary and phytosanitary measures with the focus on food safety issues represent substantial part of the AA. These topics rely on the following principles and infrastructure of the current EU food safety:

- Only the products harmless to humans, animals and plants should be placed on the market;
- Food safety should be controlled in the most effective ways pollution should be prevented on production stage, minimizing the need for controlling the quality of marketed products;
- Producers are primarily responsible to ensure food safety, thus the Food Business Operator (FBO), with a few exceptions, have to be introduced to the internationally (mainly EU) recognized food safety system – the so-called HACCP;
- All entrepreneurs have to establish relatively relaxed uniform requirements, while processes and products associated with a higher risk of disease are subject to tighter regulations;
- The design of cost-effective measures of risk analysis must lead to the state regulations threat prioritize food safety and the combat animal and plant diseases;
- Food operators have to introduce traceability system to track the information regarding all the suppliers of raw materials or products used in food production, to identify health hazards quickly and respond to unexpected threats effectively;
- Food safety should be guaranteed from "Farm to Fork" (including primary production, processing, and final consumption stages).

As a result of harmonization, EU-level food safety and quality infrastructure systems will be established in Georgia to facilitate the free entry of Georgian agricultural and industrial produce into the EU market, to secure product delivery and indirectly support the boost of quality of goods sold on domestic market.

Most of the Georgian entrepreneurs are vaguely familiar with the abovementioned regulations and the DCFTA, but at the same time lack the practical knowledge to adopt those regulations in production processes. Consequently, most of the Georgian agricultural product do not meet the necessary EU food safety, veterinary or plant protection standards, and the scope of exported products to the EU from Georgia is practically unchanged. The initiation of fish-products by eight entities and intermediate goods by the handful of exporters to the EU, or the introduction of five domestic producers of processed goods on the EU market are exception, while the positive changes are mostly observed in the absolute number of exports in the sectors (wine, mineral waters, and hazelnut) that exported in the EU in pre-AA period too. The number of exports from established exporters have increased by more than one third since 2015 to reach 789 entities.

To support the private sector achieving desired goals, state and non-governmental actors have to communicate the AA-related topics with all the actors along the production chain in consistent and ongoing bases and provide solutions for the problem businesses, especially SMEs might face. Finally, some stakeholders (especially the small-scaled producers, who lack the capital for innovations) are skeptical

regarding prospects AA (incl. the DCFTA) offer, thus the regular awareness increasing campaigns should be carried out to dispel the negative attitudes toward the subject.

Currently, Georgia moves in line with the pre-declared timeline in terms of introduction and adoption new or amended regulations in food safety, but due to the underdeveloped technical base and limited capacity of the National Food Agency (NFA), the fulfillment of the law proves to be problematic. The COVID19 pandemic added further complexity to the law enforcement and harmed the private sector, who lacks necessary financial resources for modernization of production processes to keep up with the legal reforms.

This policy document will describe Georgia's approximation process on food safety: what are the country's obligations, what is already done, and what are the challenges Georgia faces, especially in the light of COVID19 pandemic. Besides, we will review COVID19's effect on current and future approximation processes and COVID19 implication on FBOs capacity and ability to comply with the regulations. Finally, will be propose a set of recommendations for different stakeholders (FBOs, local municipalities, central government, CSOs) along the food production chain on how to better address COVID19 challenges and ensure effective implementation of the SPS policy. Policy document is a composition of insights from a desk research and interviews with key stakeholders.

Georgia's Approximation Process on Food Safety - Short Overview and Key Points

The General Agreement on Tariffs and Trade (GATT) of the World Trade Organization (WTO) is the basis of the DCFTA and the WTO is committed to soften and eliminate trade barriers between countries to foster the international trade. Actions towards achieving the goal addresses customs duties, (tariff barriers) as well as various technical requirements (non-tariff barriers) and the WTO enlists sanitary and phytosanitary measures to the later in food trade. The WTO reached a separate agreement, Agreement on the Application of Sanitary and Phytosanitary (SPS) Measure, to apply for SPS measures and it is a composition of all regulations, normative acts, established norms, procedures, packaging and labeling rules; requirements for the production processes, monitoring and inspection; certification, recognition procedures; quarantine measures; requirements for animal transport; plant analysis; and related statistics the country has introduced under its jurisdiction. The SPS measures are designed to:

- Protect the life and health of animals and plants from pests, disease-carrying or causative organisms,
- Protect the life and health of humans and animals from the risks associated with food additives, contaminants, or toxins and disease-causing organisms in food,
- Protect human life and health from the risks associated with diseases transmitted by animals, plants or products derived therefrom, or by the entry and spread of disease-causing organisms in the country.

The AA draw the timeline and the priority of the Georgia-EU rapprochement process clearly, while the level of fulfillment of these priorities within agreed timeframe would be monitored to assess the equivalence of Georgian legislation with the EU one. If the process is successful, the unified regulations will apply to Georgian products while entering into the EU market and it will alleviate the non-tariff barriers via reduced intensity of physical checks of the product on the customs, getting quality certifications, being listing among the importers and more.

All directives subject to SPS measures are maintained under the DCFTA section of Chapter 4.3 of the EU-Georgia AA and by the end of this year 60 (out of 102) regulations in food safety, 49 (out of 84) regulations in veterinary, and 37 (out of 85) regulations in plant protection should be adopted in national legislation, and the process has to be finalized by the end of 2026 (see Table1). The SPS regulations are one of the agreed priorities in the AA and actions in eight different directions must be undertaken to comply with them: harmonization of the legal framework (1), finalizing the national code for food safety, animal and plant protection (2), amendments in secondary regulations (3), food safety control (4), identification and registration of animals (5), combating the diseases (6), gaining the membership of international organizations in the field (7), and implementing international projects (8).

Table 1: Number of Directives/Regulations to be adopted till the end of respective year

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total	Total till the end of 2020
Veterinary	10	9	7	9	7	7	5	9	3	5	4	6	3	84	49
Food safety	16	13	9	6	7	9	7	7	8	6	4	9	0	101	60
Plant protection	4	3	3	9	8	10	4	10	12	8	8	8	0	87	37
Total	30	25	19	24	22	26	16	26	23	19	16	23	3	272	146

In broader sense, the improvement of SPS system and bringing it up to EU standards, will force the Georgian FBOs to modernize their enterprises, increase the quality of their produce and, subsequently, the competitiveness of Georgian products on domestic and international markets. While as for now, most of Georgian food products do not meet required EU standards and the processed goods represent only one quarter of country's export.

By latest assessments, the amendments to the Tax Code (priority 3), the activities of the NFA and the technical equipment of the laboratories (priorities 4-6) are positively assessed, nevertheless both, the NFA representatives and food producers name a limited capacity of laboratories as a challenge. On the problematic side, 2017-2019 reports indicate that actions towards consumer protection policy brought no tangible progress as the respective draft law initiated in 2015 is not adopted yet (priorities 1-2) and neither are most of the regulations in sectoral legislation adopted (priority 3).

Georgian legislation delegates the supervision of products to sectoral division, therefore different government agencies are involved in the process and the Ministry of Environmental Protection and Agriculture of Georgia, the NFA, the Revenue Service (RS) of the Ministry of Finance of Georgia, and the State Laboratory of Agriculture of Georgia are responsible for achieving the four major goals of 2020, but the source of funding for an introduction risk analyses approach for SPS measures and guaranteeing food safety on borders is yet to be determined. As far as the other three goals are concerned, they already have respective budget attached: EUR 30 thousand is devoted for the harmonization of SPS regulation, GEL 349 thousand is devoted to organizing information campaigns on food safety-related topics, and GEL 349 thousand is devoted for the trainings of food safety specialists, for capacity building and the technical advancements of laboratories throughout the country.

Despite other authorities are also involved in the process, the NFA is primarily responsible for enforcing food safety, plant, and animal protection legislation nationwide. To pursue their goal, the NFA specialists carry out inspection (planned or unplanned), monitoring, supervision, documentation checking, and sample collecting activities throughout the country, and the number of actions undertaken each year is

on raise. Nevertheless, the agency employees 509 people (same as in 2018) and total budget plan of the agency stands just above GEL 36.0mln (versus GEL 35.9mln in 2018). Since 2012 the number of planned inspections almost doubled, and the number of unplanned inspections increased more than five-fold, while the total number of fines issued increased 11.2 times. Meat and meat product, milk and milk products, and fish and fish products are the primary focus of NFA activities and due to the inconsistency with the safety standards, the authority has destroyed more than 100 metric tons of meat and meat products, and more than 20 thousand eggs only in 2018. The NFA representatives name the law enforcement as a major challenge in their day-to-day activities due to limited funding and small number of trained personnel. Nevertheless, they inspected approximately 5000 entities in the first half of 2020, collected almost 600 samples, checked the documentation of almost 3000 entities and carried out other activities reviling 1259 violation of the administrative law in the process. Notably, the NFA also plays a vital role in combating animal and plant diseases across the country, consults approximately 100 person each month via their call centers and the engages actively with consumers on social media to communicate food safety related topics.

International Experience on Food Safety Regulation Adoption

Georgia's approach to the EU legal system approximation process resembles the ones undertaken by Latvia, Estonia, and Lithuania. Not only the general composition of the group of regulators and watchdogs of food safety, but the structure of the NFA itself is similar to its counterparts in the Baltic states. The rational for focusing on Latvian, Estonian, and Lithuanian food safety systems is twofold — all three are post-soviet countries (like Georgia is), and they have joined the EU relatively lately (in 2004). Due to these geopolitical similarities, the lesson learnt in the Baltic states and Poland (also a post-soviet country, that joined the EU in 2004) are extremely valuable for Georgia and the analyses of their experience revealed interesting insights.

First, the horizontal, "round-table" format of cooperation between the governmental and non-governmental bodies yield sizable benefits. Perception that no stakeholder is an "island", but rather all the stakeholders together are one "body" with common goals, fosters the sharing of information, resources, and efforts between the players. Open and active cooperation with private parties and NGOs help to boost consumers' trust in the food safety authorities and improves FBOs' attitude towards watchdogs' actions. "Round-table" format also ensures food safety bills are properly discussed and scrutinized (feasibility studies or reform impact assessments (RIA) may follow) and do they do not result in ineffective, harsh, or rushed laws for private parties to comply with. The formation of special council is a common practice to implement desired holistic approach: distribute and clearly communicate responsibilities among stakeholders (1) and prevent the duplication or absence of necessary actions (2).

Second, at the beginning stages of food safety reform, when governmental authorities are inadequately staffed, ill-equipped and suffer from under-developed infrastructure, the public-private partnerships (PPP) can provide cost-effective solutions. Contracting competent service providers, especially for the research and development (R&D) projects can cut expenses and allocate limited budget funds more efficiently. In other words, the NFA who might be underrepresented in remote parts of the country, can utilize the technical base, human capital, organizational or managerial potential of small-scale private parties or NGOs (e.g., Local Action Group) in those regions. This also entails the development of quality

VET and higher education programs, and active headhunting/recruitment activities in the domestic or international job markets to build in-house capacity of the NFA in the mid- and long-term periods.

Third, the importance of data transfer and exchange proved to be of paramount importance withing and between the local authorities, private bodies, consumers, and the international institutions. Some of the countries run dedicated information technology (IT) departments under their national equivalents of the NFA and if the food safety hazards arise, the IT departments play vital role in kickstarting the rapid response processes. The emphasis is on those who have or might have the direct contact with the source of hazard before it enters the market (e.g., producers, processors, importers, distributors, sellers) and/or represent high-risk consumer groups. The IT departments actively utilize various channels of information sharing (incl. direct messaging, mass media, and dedicated web-portals) to run "alert systems" that inform private and non-private stakeholders of the possible threats, and they also run comprehensive and up-to-date registries and data banks with various levels of public access (from open source to authorization-based).

Fourth, often it is rational to distribute food safety responsibilities among competent authorities according to the stage in food chain (cultivation/slaughtering, processing, distribution, selling) rather than according to the type of the product (i.e., plant vs animal origin). The prior approach of control separation remains robust and curbs the risks of double-checking or not checking a particular good at all, when the incidence of composite products (incl. animal feed) on the market increases.

And finally, yet importantly, the international experience suggests FBOs, consumers or even the representatives of the food safety authorities, might interpret various food safety terms, laws, or regulations differently. Therefore, the concise, clear, and simplistic language should be used to define them, but if it is not possible – adequate legal assistance should be available for stakeholders to address.

COVID19 Effect

COVID19 does not affect the food safety agenda directly as, according to the WHO, there is currently no evidence that SARS-Cov2 virus was transferred through fruits, vegetables, or cooked food consumption. Similarly, the European Food Safety Authority finds no evidence that food can be dangerous in terms of COVID19, as the virus cannot survive without a live host and the person to person transmission remains the only main way for disease to spread. Alongside, there is no evidence that virus can be transmitted from polluted packaging's that were in different environmental conditions, despite the fact that in a modeled situations the causal agent of COVID19 resisted on cardboard surface up to 24 hour and up to several days on materials made by metal and plastic. Even so, person handling a packaging should consider all the recommendations regarding maintaining hygiene, including regular and effective handwashing routine.

Nevertheless, the specter of indirect adverse effects of the pandemic is vast. the EU-Georgia AA is called to provide Georgian consumers with safe and harmless products, reduce costs for domestic exporters, and support the modernization of Georgia-based enterprises, but the COVID19 posed threats to all of these goals. Besides, it slightly slowed down the process of legislative refinement as the focus of the government shifted towards managing the pandemic.

First and for most, pandemic-related restrictions (curfew, quarantine, etc.) presented exceptional challenge for competent state authorities to fulfill their routine activities and limited the capacity to carry out control procedures throughout the country mainly in the second quarter of 2020. As a result, the actual spending of the NFA stood at 66% of the planned figure for the first half of the year. Still, National Food Agency was coordinating with central government and actively involved in controlling food selling business operators while checking their readiness and fulfilment of established requirements. Also, in the initial outbreak of the pandemic worldwide and the first incidences in the county, rush-buying of personal protective equipment (PPE) took place and food safety specialists and those involved in food production and delivery chains faced the shortage of vital equipment and materials.

Limited cargo movement and the disruption in production processes, on the other hand, weakened international and within-country supply chains, while simultaneously increasing the pressure on food safety control on the borders and in the laboratories countrywide. If the pace of the pandemic keeps on crawling up, the working capacity of labs, previously devoted for safeguarding food safety, might be instead utilized for COVID19 clinical testing, and dealing with the requests from interested ministries, consumer and media will require additional workforce involvement.

Thirdly, the temporary closure of agrarian markets, restricted HoReCa activities, and limited transportation, paired with stricter requirements for ventilation and free space, harmed the FBOs and most of them, especially SMEs struggle on cashflow. Besides, the Increased uncertainty of the business environment and limited market opportunities restrain enterprises to further invest in capital and they lack the stimuli to pursue additional quality certifications.

COVID19 and FBO's

The FBO is defined as a for-profit or non-profit private or public undertaking of any of the activities related to any stage of manufacture, processing, packaging, storage, transportation, or distribution of food, including imports and food services, and sales of food or food ingredients. Nevertheless, as mentioned above, there is no evidence the COVID19 poses direct threat to consumer health on any stage of the food delivery from Farm to Fork. There is no evidence, that food can be dangerous in terms of the virus as the main way of transition is considered from person to person. Still, FBO's should take care on preventing spread of the virus through their production process and competent authorities need to liaise closely with the FBOs to assess whether temporary amendments or adjustments are required to food legislation due to the pandemic to ensure the supply of food is not compromised. Competent authorities will need to assess whether flexibility can be applied when enforcing technical aspects of food regulations, while ensuring the safety of food. Going forward, the safety on the workplace can be maintained by good hygienic practices and periodic checkups of the staff. If a person has any symptoms of COVID19, under no circumstances should a person go to work but seek the medical treatment instead. Other workers are advised to work from home, but if it is not possible – they should keep a distance on a workplace and use plexiglass, where possible.

According to the recent estimates, severity of the negative economic effects of COVID19 pandemic range from "moderate" to "strong" for FBOs, but the Government of Georgia wanted to maintain the price levels on food nationwide and do not compromise on food quality. Thus, they initiated numerous programs/activities in their anti-crisis programs, to benefit both parties (producers and consumers). The selected programs/activities are following:

- Technical assistance for existing state program beneficiaries to produce quality food products and get the co-financing to obtain international food safety standards/systems and to rebrand – total budget of GEL 1.5mln.
- Modernization of dairy sector for fostering capital investment in the production processes and improving the infrastructure with the prime goal to implement better international practices and obtain quality standards – total budget of GEL 42mln.
- Supporting Agriculture Cooperatives and providing the funding to modernize the equipment and obtain international standards food safety standards/systems and to rebrand.
- Supporting applied and fundamental research in agronomy and food sectors (amendment in the State Budget of Georgia 2020).
- Organizing public meetings and discussions with agronomy, agricultural engineering, food technology, veterinary, plant protection, and economic specialists (amendment in the State Budget of Georgia 2020).
- Supporting the international cooperation in scientific research and education in agriculture (amendment in State Budget of Georgia 2020).

As far as the immediate response to the pandemic is concerned, the NFA:

- organized the general cleaning of 90 agrarian markets across the country,
- monitored 5520 FBOs whether they met with COVID19 specific regulations or not,
- up to 80 unit of special machinery was sent to the border check points and quarantined regions to check the safety of food on the entrance and departure,
- food safety recommendations were developed and communicated with the FBOs and public.

On the other hand, the interviews with the stakeholders, reviled that some of the challenges in the light of COVID19 are not addressed in any of proposed mitigation policies, but they hinder the approximation process of food safety regulations in the fastest and most efficient ways and negatively affects future perspectives of SPS regulations in the country in general. First, most of the primary producers live in rural areas with underdeveloped infrastructure and a delivery of animal feed to the farm, or a transportation of the final produce to the market is a difficult task, which became even problematic when the curfew was enforced nationwide. Some of the farmers, who did not employee in-house vets or plant protection specialists, were cut of the necessary services, and those who did not have enough feed stocks, struggled before obtaining respective licenses from government authorities to deliver feed into own farms. Second, most of the FBOs are run by farmers who lack proper financial and legal education to cope with complexities of SPS related laws and respective "paperwork". Third, the farmers lack a practical knowledge to set up the production processes in a way to fully comply with food safety requirements that often result in additional costs for the enterprises. For instance, one farmer stated that the members of their cooperative built a farmhouse for a cattle, but had to renovate/rebuild most of the building as the initial construction did not meet the required criteria set by the NFA. Fourth, the laboratory services are limited in rural areas (where most of FBO production facilities are located) and the samples have to be sent in cities, which adds to the costs of the service, already consider as "expensive" by most of the SMEs. Fifth, some of the lab tests, required by a specific food safety, veterinary, or plant protection standard/certification is not available in the country at all. Sixth, the temporary closure of agrarian markets and the reduction in consumer spending, negatively affected FBOs' cashflow and, given some of the producers have credits financing, they are in dire need of fresh financial influx, tax credits, or debt restructuring. Seventh, the introduction of new mandatory SPS regulations levies additional financial burden on food producers who may lack the resources to modernize and pushes them to exit the market

at all. And lastly, the increased uncertainty on the market, discourages aspiring FBOs to acquire new/additional standards/certification as the expected financial gains from the investment are unclear.

The literature, in addition, suggests other challenges COVID19 might pose to the food safety in law enforcement stage, given the NFA already experiences the shortage of human capital – they have neither enough resources to employee enough staff to cope with increased workload, nor the qualified specialists are available in the country to enforce the inspection, monitoring, and supervision activities at a full extent of the law. The new risks and threats arise mainly on the second end of "from farm to fork" stream. The disrupted supply chains forced HoReCa sector to seek new suppliers in a short period of time and they might not be able to assess the trustworthiness of the seller and the quality of the product properly. Simultaneously, the online food sales (catering services) spiked and numerous sellers entered hard-to-monitor market, where violating food safety regulations and practicing food fraud is easier. In addition, the closure of agrarian markets forced food producers to pile up their produce in stocks (if possible) and subsequently had been increasing the changes of contamination before the markets reopened.

Summary and Recommendations

The SPS regulation is a complex issue, it directly affects the health of the population and needs a well-developed infrastructure to ensure mutually beneficial and efficient cooperation of many different types of actors/stakeholders. Respectively, guaranteeing and safeguarding food safety, animal, and plant protection is not an easy tasks per se, with the COVID19 pandemic exacerbating the situation.

Below we will mainly focus on the challenges specifically linked to the COVID19 and propose the recommendation designed to assist the stakeholders in successful fulfillment of the responsibilities undertaken by Georgia under the EU-Georgia Association Agreement. Some of the recommendations mirror the best practices of foreign countries, and some are unique for the country.

FBOs:

- Stakeholders in this group require intensive training in food safety, animal, and plant protection techniques, and raising the awareness regarding the good practices to combat the spread of COVID19 is necessary,
- Robust IT systems must be installed and the access to telecommunication services must increase to facilitate working from home, teleworking, and on-line conferencing in case curfew/travel ban (full or partial) is (re)introduced. With IT systems, farmers will get an online consultation services when vet/plant protection specialist are not available at place,
- Debt restructuring, tax breaks or other financial benefits are necessary short-term measures for enterprises, that face partial or full loss of sales and increased costs of reaching the market.

Government authorities:

- Increasing the funding of the NFA and build its capacity,
- Introduce bachelor and master level education modules for food safety, animal, and plant protection in high education centers (universities, institutes, etc.) to prepare SPS specialists for the governmental as well as private parties,
- Prioritizing critically important services during the ongoing pandemic, temporarily suspend lowrisk control activities, and prioritize food incident management or investigation of food complaints,

- Working out a contingency plan that include details of the roles and responsibilities of the central, regional, and local competent authorities and mechanisms of cooperation and collaboration during times of crisis.
- Training of workers to minimize the risks of getting ill with the SARS-Cov2 virus, to recognize its symptoms, and follow proper hygiene on the workplace,
- Encourage working from home and/or rearrange schedules and introduce split-shift approach,
- Cooperate internationally with competent authorities and share the knowledge.

Infrastructure:

- Identifying the local manufacturers of PPE, animal and plant protection medications and build their capacity to satisfy the demand in case of import disruptions or rush-buying,
- Accrediting and contracting private laboratories across the country to cope with increased workload in case some of the labs will be modified to serve COVID19 clinical tests,
- Developing small-scale, portable laboratories to serve the FBOs in remote regions of the country,
- Develop the fleet of refrigerated vehicles that deliver the food and food products and laboratory samples from the farm to its final destination, and/or delivers animal feed and animal or plant protective medication to the producers throughout the country,
- Boost the awareness increasing campaign on COVID19 related risks specific for the FBOs,
- Develop the rigorous monitoring procedures for food delivery/catering,
- Support and develop online platforms partially or fully devoted to support food safety, animal, and plant protection (e.g., the apps Agronavti, and UVNO). Similar platforms are cost effective solutions and could serve practically unlimited number of users at once,
- Develop the instruction materials (video, audio, print) for FBOs with regards to financial and legal documentation and offer respective consultation services
- Capacity building of veterinary centers and construction of animal shelters along the major animal transportation routes (including from and to pastures). Currently, only six veterinary centers operate in Kakheti and Kvemo Kartli, but Georgia has committed to adopt regulations that set special requirements for animal transportation,
- Support the production of animal feed and food packaging materials in Georgia. In case further disruptions in the international trade occur, price sensitive SMEs will not be able to afford the animal feed and food packaging that will soon become the subject of additional quality requirements under the AA.

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