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## AGRI-FOOD POLICY REVIEW

# Implementation of the EU Acquis in the Agricultural Sector of Ukraine: Obligations and Achievements

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Association Agreement signed between the EU and Ukraine lists 59 EU directives and regulations related to agricultural sector and rural development to be implemented into national legislation of Ukraine. Moreover, a large number of technical regulations on sanitary and phytosanitary measures are yet to be transposed into national law.

Although the Association Agreement does not contain specific timeframes, Government of Ukraine took an obligation to complete approximation of national legislation to the EU one by 2017.

Implementation plans developed by the Ministry of Agrarian Policy and Food constitute a firm basis for approximation of national legislation with the EU *acquis*. However, only several laws focused specifically on legislative approximation were approved by the Verkhovna Rada (Parliament) as of beginning of 2017.

#### *Provisions of the Association Agreement*

Provisions for approximation of national legislation in the agricultural sector (including fisheries) with the EU *acquis* are laid down in chapters 17-18 of Title V (Economic and Sector Co-operation). According to Article 403 of the Association Agreement, "The Parties shall cooperate to promote agricultural and rural development, in particular through gradual approximation of policies and legislation". It is further stated in Article 405 that "[...] the Parties shall support gradual approximation to the relevant EU law and regulatory standards, in particular those as listed in Annex XXXVIII to this Agreement". In turn, Annex XXXVIII lists 59 directives and regulations, which are classified on the following categories:

- **quality assurance** (7 regulations specifying procedures for protection of geographical indications of origin, guaranteed traditional composition and production methods of agricultural and food products, common organization of the wine market and control of the wine sector);
- **organic farming** (3 regulations, which define rules on production, labelling and imports of organic products);

- **genetically modified crops** (1 recommendation on approaches to ensure the co-existence of genetically modified crops with conventional and organic farming);
- **biodiversity** (1 regulation establishing a Community programme on the conservation, characterisation, collection and use of genetic resources in agriculture);
- **marketing standards for plants, seeds of plants, products derived from plants, fruits and vegetables** (33 directives and regulations establishing rules for marketing and certification of specific products as well as market organisation);
- **marketing standards for live animals and animal products** (14 directives and regulations setting marketing standards for certain animal products as well as rules for markets organisation).

Chapter 18 includes provisions for bilateral cooperation in the areas of fisheries and maritime policy to ensure sustainable management and conservation of living aquatic resources.

EU regulations related to food safety, sanitary and phytosanitary management issues constitute a large body of legislation. These are not listed in Chapter 4 Title IV (Trade and trade-related matters) but it is stated in the Annex V that Ukraine should develop a comprehensive strategy on implementation of relevant legislation. Considering that Ukraine is a party of the WTO and a number of international conventions related to sanitary and phytosanitary measures, many international standards have already been adopted<sup>1</sup>. However, a lot of specific EU regulations are still to be implemented.

Exact time frame for legislative approximation is not specified in the Association Agreement. In particular, it is stated in the Annex XXXVIII that listed EU regulations "constitute the legislative references when gradual approximation of legislation in a specific sector or product is considered by the Ukrainian side". Next section describes legislative basis established for the implementation of the EU *acquis* in the agricultural sector of Ukraine.

<sup>1</sup><http://minagro.gov.ua/themes/garland/pdf/1.1%20Basic%20material%20ENG.pdf>

### ***National plans for implantation of the EU acquis***

An Action Plan, required for the implementation of the Association Agreement, was approved by the Cabinet of Ministers<sup>2</sup> on September 17, 2014. This plan elucidates the division of the responsibilities between different agencies; moreover, partners from the EU side on particular issues are defined and necessary measures are outlined. Although Association Agreement does not contain specific timeframes, Government of Ukraine took an obligation to complete approximation of national legislation to the EU one by 2017. All responsible bodies had to develop and submit plans on the implementation of the EU directives and regulations by the 1<sup>st</sup> of November, 2014. Government Office for European Integration is responsible for monitoring the progress of the Action Plan.

In turn, Ministry of Agrarian Policy and Food of Ukraine (MAPF) developed detailed implementation plans for transposition of three EU regulations, which were approved by the Cabinet of Ministers on 26 November 2014<sup>3</sup>. These plans<sup>4</sup> define specific measures, responsible institutions, timeframes and performance indicators for transposition of the following legal acts of the EU *acquis*:

- Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the wine market;
- Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms;
- Commission Regulation (EC) No 555/2008 of 27 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008, as regard support programmes, trade with third countries, production potential and on controls in the wine sector.

Implementation of other EU regulations is guided by the Order of the MAPF as of 19 January, 2015 № 15 "On Adoption of the Plan of approximation

<sup>2</sup><http://zakon4.rada.gov.ua/laws/show/847-2014-%D1%80>

<sup>3</sup><http://zakon1.rada.gov.ua/laws/show/1144-2014-%D1%80>

<sup>4</sup>[http://www.kmu.gov.ua/control/publish/article?art\\_id=247981881](http://www.kmu.gov.ua/control/publish/article?art_id=247981881)

of Ukrainian Law to EU law in the Agricultural Sector"<sup>5</sup>. Overall, MAPF is involved in the implementation of 34 measures (18 of which as a responsible leading body) of the Action Plan. Moreover, on 24 February 2016<sup>6</sup>, Cabinet of Ministers approved a Comprehensive strategy for implementation of the Chapter IV (of Title IV) on sanitary and phytosanitary measures of the Association Agreement. This strategy lists 70 groups of measures to implement over 250 EU regulations within 2016-2020 time period.

According to the provisions in the Association Agreement, the Strategy should be submitted for consideration at the first meeting of the Subcommittee on Management of Sanitary and Phytosanitary Measures, the date of which is currently being negotiated with the European Commission.

### ***Key achievements of legislative approximation in the agricultural sector***

An overview of legislative acts and regulations developed by the MAPF unilaterally or in cooperation with parliamentary members proves that most efforts were concentrated on deregulation measures. It should be noted that many important laws are being stuck in the pipeline waiting for approval by the Verkhovna Rada for several years already. Just a few approved legal acts described below focused exclusively on approximation with the EU *acquis*. The following description of implemented regulations does not claim for being complete.

Fundamental provisions to ensure quality and safety of food products in line with the EU regulations were introduced already in 2014 with the approval of the Law # No1602-VII "On amendments of certain legislative acts of Ukraine on food products"<sup>7</sup> as of 22 of July, 2014, and Law #1648-VII "On amendments of certain legislative acts of Ukraine on identification and registration of animals"<sup>8</sup> as of 14 of August, 2014.

<sup>5</sup><http://minagro.gov.ua/uk/ministry?nid=15556>

<sup>6</sup> <http://zakon5.rada.gov.ua/laws/show/228-2016-%D1%80/page>

<sup>7</sup> <http://zakon5.rada.gov.ua/laws/show/1602-18/page>

<sup>8</sup> <http://zakon2.rada.gov.ua/laws/show/1648-vii>

The Law #1602-VII clarified terminology and introduced provisions for establishment of one umbrella state body on food safety issues and traceability of products and, most importantly, requirements for all market operators to implement a system of food safety management based on HACCP<sup>9</sup> principles, etc. The law came into an effect on 20 September, 2015.

The Law #1648-VII introduced mandatory identification and registration of cattle, pigs, horses, sheep and goats, as required by the EU legislation. This import measure helped to improve state control of veterinary and sanitary conditions on farms and traceability of animal produce in order to identify animal diseases and prevent epizooties. For consumers this means higher standards of food safety.

In 2015, two other important laws were approved by the Verkhovna Rada. The Law № 864-VIII "On amendments of certain laws of Ukraine on seeds and propagating material to harmonize it with European and international standards"<sup>10</sup> as of 8 December 2015. The law should facilitate the implementation of requirements of the Association Agreement by introducing procedures for registration and certification of seeds. Thus, the law establishes framework conditions for implementation of the EU directives and regulations related to seeding and propagating material listed in Annex XXXVIII. Detailed technical regulations will have to be approved yet.

The second Law № 287-VIII "On the by-products of animal origin not intended for human consumption"<sup>11</sup> as of 7 April 2015 defines key principles and priorities for sustainable state policy in the area of production and sale of animal by-products. Thus, the risks for human and animal health at different stages - from collection and processing of such by-products to their use should be reduced. The law ensures harmonization with the EU regulations № 1069/2009 and № 142/2011. It will facilitate improvement of the state control in the given area and prevention of infectious diseases.

Moreover, the Cabinet of Ministers of Ukraine also approved Concept for Rural Development<sup>12</sup> (Order # 995-p as of 23.09.2015). The aim of the Concept is to establish necessary organizational, legal and financial preconditions for sustainable development of rural areas. The Concept defines priorities for the development of rural areas by 2025 and shifts the focus from supporting agrarian sector to support of rural development. The Concept envisions also harmonization with relevant EU legislation.

In 2016, the Cabinet of Ministers of Ukraine approved detailed rules for production of organic apiculture products or raw materials (Decree #208 as of 23.03.2016), organic products or raw materials of plant origin (Decree #587 as of 31.08.2016) and of animal origin (Decree #241 as of 30.03.2016) to foster development of the domestic market of organic production and stimulate further integration with the EU market. In addition, Ministry of Agricultural Policy and Food of Ukraine approved specific requirements to cacao products and chocolate (Order #157 as of 13.04.2016).

### *Outlook*

A number of key legislative acts targeting approximation with the EU law were developed and submitted in the previous years. Their adoption by the Verkhovna Rada is expected in 2017.

The draft law #0906 "On state control which is carried out to verify compliance with the legislation on food and feed safety, animal health and welfare"<sup>13</sup> was registered back in 2014 and should be approved now by the Verkhovna Rada in the second reading. This draft law is important not only to ensure harmonization with the EU Regulations #854/2004, #882/2004, #669/2009 and EU Directive #97/78/EU but also to improve existing legislative provisions for protection of human health and to strengthen consumer rights.

The draft law #2845-1 "On feed"<sup>14</sup> (registered on 27.05.2015) aims to streamline legislative provisions on production, movement, hygiene, labeling of feed, establishment of good practice of feeding

<sup>9</sup> Hazard analysis and critical control points

<sup>10</sup> <http://zakon5.rada.gov.ua/laws/show/864-19>

<sup>11</sup> <http://zakon5.rada.gov.ua/laws/show/287-19>

<sup>12</sup> <http://zakon2.rada.gov.ua/laws/show/995-2015-%D1%80>

<sup>13</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=52373](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=52373)

<sup>14</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=55372](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55372)

animals, interaction between the executive authorities and market operators. The draft law was developed in line with the relevant regulations of the EU (e.g., #178/2002, #767/2009, #183/2005).

In addition, two important laws should be also approved in 2017, which were already developed in 2016. The first one is the draft law #4611 "On requirements for objects and materials in contact with food"<sup>15</sup>, which aims to establish legal and organizational provisions for movement of products in contact with food to ensure safety of food for consumers

The second draft law #4126-1 "On food information to consumers"<sup>16</sup> also aims to protect the health and interests of consumers and to establish provisions to guarantee the rights of consumers to information about food content or manufacturing process. The draft law is fully compliant with relevant regulations of the EU.

**In conclusion, it should be noted that a full approximation of national legislation to the EU acquis by end 2017 as defined in the Action Plan of the government seems to be a challenge.**

**The delay of implementation of the EU acquis means lost economic opportunities for Ukrainian producers in terms of access to the EU agricultural markets. It results for the government in certain losses of the tax revenue. The food safety standards in key agricultural sub-sectors of Ukraine are lower than in the EU.**

**Thus, a fast approximation of legislative norms to the EU regulations is in the best interests of Ukraine.**

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<sup>15</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=59002](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=59002)

<sup>16</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=58324](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58324)