

LEGAL ASPECTS OF RISK ASSESSMENT

UDC 366.54
DOI: 10.21668/health.risk/2018.4.03.eng



PROVISION OF FOOD SAFETY AND CONSUMER RIGHTS PROTECTION IN THE EURASIAN ECONOMIC UNION LAW

L.N. Osaulenko

Eurasian Economic Commission, 2 Letnikovskaya Str., bld. 1/2, Moscow, 115114, Russian Federation

International economic integration is a process of interaction between states that involves trans-border and barrier-free movement of products and services; it means gradual economic drawing together within a common (unified) market for consumer goods and services based on national legislation being harmonized and unified or similar regulation in specific spheres being created.

As the Eurasian integration is going on, it is important to provide and protect interests of consumers that naturally arise when administrative barriers are eliminated and goods and services flow more freely between the EAEU member states.

Our research object was a legal and regulatory base existing in the Eurasian Economic Union that regulates issues related to providing food products quality and safety and consumer rights protection.

Our research goal was to reveal what mechanisms for international cooperation and harmonization of national legislative standards existed in the EAEU countries in the sphere under consideration and to determine possible ways for their improvement.

As a result, we gave an overall characteristics for legal regulation in the sphere of providing food products safety in the Eurasian Economic Union as well as mechanisms for providing food products safety, both existing and being developed at the moment, that are based on risk assessment.

The analysis we performed allowed us to conclude that a system for providing food products safety that is being created now in the EAEU is a complex one and is aimed at providing safety of people's lives and health, at preventing consumer rights violation, and at informing about food-related health risks.

Creation of a system for food products safety is under way in the EAEU now, and it means that there are some preconditions for development of a global action program for the EAEU countries which will be aimed at consumer rights protection and providing high quality of products and services.

Key words: consumer rights protection, products safety, food products safety, risk assessment, the Eurasian Economic Commission, the Eurasian Economic Union.

The Eurasian Economic Union Treaty (hereinafter called the Treaty)¹ was signed on May 29, 2014; according to it, all the EAEU member states are to create a unified market and to provide free flow of goods, services, capitals, and labor within it. According to provisions of the Treaty all the member states are to pursue a harmonized policy in the sphere of consumer rights protection.

Products safety is a basic and undeniable consumer right. An issue related to achieving a

level of safety relevant to legal requirements is considered vital all over the world [1–4], including the EAEU member states [5–7]. The EAEU member states and the Eurasian Economic Commission (hereinafter called the Commission) are to make coordinated and efficient decisions that are aimed at protecting interests of all the consumer market participants, but first of all, consumers.

The EAEU member states fixed the grounds for a coordinated policy in the sphere

© Osaulenko L.N., 2018

Lidiya N. Osaulenko – Candidate Of Jurisprudence, Head of Consumer Rights Protection Division at Department for Sanitary, Phytosanitary and Veterinary Measures (e-mail: osaulenko@eecommission.org; tel.: +7 (495) 669-24-00 (ext. 5180); ORCID: <https://orcid.org/0000-0003-2763-9173>).

¹The Eurasian Economic Union Treaty (signed in Astana on May 29, 2014) [web-source] // The Eurasian Economic Commission official web-site. – URL: <http://www.eurasiancommission.org/>(date of visit June 08, 2018).

of consumer rights protection and promised to guarantee this protection; thus, they chose the only right way to develop their economic relations based on full responsibility to their citizens who are consumers on the unified market.

These consumers are numerous as more than 182 million people are citizens of the EAEU member states, and efficiency of the Eurasian integration depends on their well-being. Providing higher living standards for the EAEU states citizens directly depends on providing better citizens' health, and their health, in its turn, is based on coordinated and relevant activities performed by the EAEU member states and aimed at preventing low quality food products from penetrating the unified EAEU market as such products are hazardous for people's life and health.

Specific attention paid to providing food products safety is determined by risks caused by unregulated food products distribution; such risks lead to food intoxications and official figures related to this health problem are much lower than actual ones [8].

The EAEU member states protect their citizens' right to get safe and qualitative food products with mechanisms that are worked out by the Commission.

Decisions made within the EAEU in the sphere of food products safety are aimed at protecting citizens' health as well as at providing basic consumer rights [9, 10] (a product should be safe, a consumer has the right to get reliable information on a product, it is unacceptable to deceive a consumer giving him or her false information on a product quality and properties, a consumer should be aware about possible ways to protect him or herself).

The EAEU Technical Regulations are issued in order to fix minimal necessary safety requirements for consumer products as well as to prevent any actions that can mislead a consumer.

At the EAEU level, the EAEU member states pursue a coordinated policy in the sphere of consumer rights protection that is aimed, among other things, at providing consumers, public authorities, and consumer so-

cial organizations with relevant and reliable information about products (works, services), manufacturers, sellers, and contractors.

The EAEU authorities have created and constantly enlarge a legal framework that fixes clear and transparent requirements to food products starting from sanitary-epidemiologic and hygienic safety requirements up to data that are included into food products marking and ensure consumers right to obtain full and reliable information about these products.

Hygienic requirements and safety standards for food products are developed on the basis of scientific research and assessment of risks that can lead to hazardous impacts on a human body; international and regional standards, guidelines and (or) recommendations.

Unified sanitary-epidemiologic and hygienic requirements to products according to the Commission regulations are included into the EAEU Technical Regulations and allow to protect people's lives and health, the environment, as well as consumers rights, together with other documents that fix requirements to processes of manufacturing, storage, transportation, sales, and utilization of products that are subject to technical regulations, requirements to their marking and to procedures of assessment (confirmation) whether food products and processes of their manufacturing, storage, transportation, sales, and utilization, conform to standards.

Technical regulation for food products has its peculiarities; thus, it is extremely vital not only to provide their safety but also to fix certain requirements that bind a manufacturer to inform buyers about consumer properties of this or that product, such as a date when it was manufactured, shelf life, and food product structure. In other words, a manufacturer should provide a buyer with specific data that are to be shown on a label put on a packed food product [1, 1–12]. This approach is aimed at providing a buyer with reliable data on a food product structure and its consumer properties.

The EAEU Technical Regulations in the sphere of food products safety are created on

the basis of their step-by-step harmonization with the international standards fixed by the Codex Alimentarius Commission, the EU regulations and directives, in particular the EU Regulations No. 178/2002², No. 1169/2011³, The EU Orders No. 852/2004⁴, 853/2004⁵, 854/2004⁶ and taking into account economic development of the EAEU member states in the relevant sphere of food products manufacturing.

If manufactured products are of high quality, it helps to increase their competitiveness. Therefore, food manufacturers realized it was economically necessary to have some objective evidence that they truly manufactured qualitative and safe food [9, 10, 13, 14]. To achieve the above mentioned goals, internationally accepted quality managements systems were created; they are, for example, a quality management system based on ISO 9001:2001 "Quality management systems – Requirements". There are also food safety management systems based on the requirements fixed in the internationals ISO 22000:2005 standard "Food safety management systems – Requirements for any organization in the food chain".

Basics for creating conditions and procedures that provide conformity with minimal obligatory requirements in food manufacturing

that are common for all the EAEU member states are fixed in the "common" Technical Regulations "On food products safety" (CU TR)⁷. These regulations specify that HACCP safety system (Hazard Analysis and Critical Control Point) should be applied as a system that provides food products safety.

When a manufacturer produces food products, all the production processes are to provide conformity of manufactured products with safety requirements. So, a manufacturer should develop, implement and maintain procedures based on HACCP principles.

The above mentioned system has one basic principle, notably, analysis of hazards via assessing significance of risks and hazards occurring at any stage in a product life cycle,

HACCP principles application allows a manufacturer to analyze all the stages in food production and to prevent all possible hazards and risks at this or that production enterprise [15–17].

In order to meet requirements fixed in technical regulations, manufacturers voluntarily apply international standards, and in case there are no such standards, national ones. As there are multiple food products manufactured at present, standards create reliable grounds for unambiguous food prod-

² 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, establishing the European Food Safety Authority and laying down procedures in matters of food safety: [web-source]. – URL: <https://www.fsvps.ru/fsvps-docs/ru/usefulinf/files/es178-2002.pdf> (date of visit June 08, 2018).

³ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (approved in Strasburg)(with amendments and supplements made on November 22, 2013) [web-source] // Гарант. – URL: <http://base.garant.ru/70256896/ee127b952f55309e742991381e8bb5fe/> (date of visit June 08, 2018).

⁴ Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs [web-source]. – URL: <https://www.fsvps.ru/fsvps-docs/ru/usefulinf/files/es852-2004.pdf> (date of visit June 08, 2018).

⁵ Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin [web-source]. – URL: <https://www.fsvps.ru/fsvps-docs/ru/usefulinf/files/es853-2004.pdf> (date of visit June 08, 2018).

⁶ Regulation (EC) no 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organization of official controls on products of animal origin intended for human consumption [web-source]. – URL: <https://www.fsvps.ru/fsvps-docs/ru/usefulinf/files/es854-2004.pdf> (date of visit June 08, 2018).

⁷ The Decision by the Customs Union Commission made on December 09, 2011 No. 880 (edited on June 10, 2014) «On Approval of the Customs Union Technical Regulations "On food products safety" (together with CU TR 021/2011. The Customs Union technical Regulation "On food products safety") [web-source] // The Eurasian Economic Commission official web-site. – URL: http://www.tsouz.ru/KTS/KTS33/Pages/R_880.aspx (date of visit June 08, 2018).

ucts identification and correct application of requirements fixed in technical regulations both by manufacturers and controlling authorities.

Decisions that are made within the EAEU and related to providing food products safety are based on risk assessment which, in its turn, is performed taking into account the unified Methodology for assessing population health risks under exposure to chemical, physical, and biological factors for determining parameters of products (goods) safety. The Methodology was developed by the Commission together with scientific organizations from Russia, Belorussia, and Kazakhstan.

Risk assessment is obligatory for creating competitive supply on food markets as it allows to provide food products safety and quality. And here consumer satisfaction is the most significant factor that influences efficiency of business processes management [18–20].

In a situation, when food products safety and quality are a manufacturer's responsibility, it is truly important to make businesses genuinely responsible; such businesses should base all their activities on prevention and minimization of risks related to each process in food chain.

We can't fail to take into account application of principles common for all the EAEU member states that are based on risk-oriented approach to state control as these principles are significant and efficient for business development [21].

In this relation, a draft Agreement on principles and approaches of state control has been created in the EAEU. This Agreement includes the following provisions:

- ◆ risk-oriented approach is to be implemented in all the EAEU member states. This approach means that state control (surveillance) is to be performed on the basis of assessing risks caused by violation of requirements fixed in the EAEU technical regulations. Assessment results substantiate a choice on intensity (duration, periodicity)

of control (surveillance) activities. Forms and techniques of control activities depend on a risk level or a hazard category that are specific for this or that economic activity performed by an economic entity and (or) production objects at which this economic activity is performed. When making a choice on control activities and their forms and techniques, experts should take into account possible negative consequences caused by a situation when this economic entity violates obligatory requirements;

- ◆ prevention is to be a top priority rather than punishment for violation; thus, a priority is to create civilized and socially responsible businesses in the EAEU member states;

- ◆ a unified integrated information system is to be created in the EAEU; the system should contain data on hazardous products.

If the system is created, it will allow to achieve two goals. First, the system should provide prompt interaction between state control (surveillance) authorities aimed at organization of state control (surveillance) activities and prevention of manufacturing and distribution of products not conforming to obligatory requirements fixed in the EAEU technical regulations on the territory of the EAEU member states. This interaction should also involve systematic information exchange and exchange of experience in performing state control (surveillance) activities and organization of joint inspections. Second, the system should become an information source for consumers allowing them to obtain reliable and comprehensive information about products that are distributed on the EAEU market as well as about manufacturers, sellers, and importers.

So, the analysis we performed allows to conclude that the system for legal regulation of issues related to providing food products safety within the EAEU involves the following:

- ◆ the EAEU technical regulations are to fix obligatory requirements to food products safety (hygienic standards for food products safety developed on the basis of scientific research including risks assessment related to hazardous impacts on a human body);

◆ a food manufacturer is to bear full responsibility for analysis of hazards that is to be performed via assessing risks significance and hazard levels at each stage in a product life cycle;

◆ the EAEU member states are to create unified techniques and criteria for health risk assessment that are to be applied for making decisions aimed at providing food products safety within the EAEU;

◆ the EAEU member states are to determine common approaches to state surveillance based on risks assessment; these approaches will allow to take all the necessary measures fixed in the national legislations of the EAEU member states and aimed at limiting or prohibiting manufacturing and distribution of products not conforming to requirements fixed in the EAEU technical regulations as well as at withdrawal of such products from the unified EAEU market in case of necessity.

Food products safety system that is being created with the EAEU under coordination by the Commission is to protect citizens' health; to protect consumers from being deceived; to provide proper informing of the society about detected products that don't conform to obligatory requirements.

This approach when adopted in legal regulation is a key precondition for providing food security which, in its turn, is among top priorities fixed in the EAEU coordinated policy in the sphere of consumer rights protection pursued jointly by the EAEU member states and the Commission.

This paper outlines a good example of a food products safety system being created within the EAEU; the experience can be applied for creating a system for providing safety and quality of all the consumer products and services that appear on the unified EAEU market. And here we should take into account all the spheres related to consumer legal rela-

tions, and the EAEU member states and the Commission are to create unified "rules of the game" that will allow businesses to develop in such a way so that consumers could also truly benefit from the Eurasian integration.

As world practices show, provision of only safety of products (which is fully envisaged by legal documents within the EAEU legal system) doesn't allow to completely fulfill consumers' right to buy high quality goods or services.

It is quite promising for the EAEU member states to enhance cooperation in the sphere on issues related to further improvement of mechanisms for protecting consumer rights and interests. This cooperation is to be based on the EAEU strategy aimed at protecting consumer rights and interests via increasing quality and competitiveness of goods (services) produced in the EAEU member states and growing exports from these states.

The strategy when it is adopted will allow to combine efforts by the EAEU member states, to develop Eurasian standards for quality of goods or services, to provide a possibility to support activities by social organizations aimed at protecting consumer interests, and to create conditions for making businesses more socially responsible.

This work performed at the EAEU level will efficiently supplement activities performed by the EAEU member states and aimed at preventing hazardous and low quality goods and services from penetrating the unified EAEU market as well as at protecting consumers' health, safety, economic and legal interests.

Funding. The research was not granted any sponsor support.

Conflict of interests. The authors state there is no any conflict of interests.

References

1. Attrey D.P. Regulatory requirements for labeling, health, and nutritional claim (Book Chapter). In book: *Food Safety in the 21st Century: Public Health Perspective*. Academic Press, 2016, pp. 497–506.
2. McEvoy J.D.G. Emerging food safety issues: An EU perspective. *Drug Testing and Analysis*, 2016, vol. 8, no. 5–6, pp. 511–520. DOI: 10.1002/dta.2015
3. Solaiman S.M., Ali A.N. The Most Serious Offenses and Penalties Concerning Unsafe Foods under the Food Safety Laws in Bangladesh, India, and Australia: A Critical Analysis. *Food and drug law journal*, 2015, vol. 70, no. 3, pp. 409–433.
4. Kees J., Burton S., Andrews J.C. Government efforts to aid consumer well-being: Understanding federal health warnings and disclosures (Book Chapter). In book: *The Cambridge Handbook of Consumer Psychology*, 2015, pp. 530–563. DOI: 10.1017/CBO9781107706552.020
5. Kokina V.V. Notifikatsiya organov po sertifikatsii kak instrument obespecheniya bezopasnosti tovarov v Evraziiskom Ekonomicheskom Soyuze [Notification of certification bodies as a tool to ensure the safety of goods in the Eurasian Economic Union]. *NovaUm.Ru*, 2018, no. 12, pp. 110–112 (in Russian).
6. Andreeva L.V. Technical regulations and standards as tools to ensure the safety and quality of goods, works and services in the Eurasian economic Union. *Mezhdunarodnoe sotrudnichestvo evraziiskikh gosudarstv: politika, ekonomika, pravo*, 2017, vol. 4, no. 13, pp. 67–78 (in Russian).
7. Arnautov O.V. On improvement of the mechanism for establishing and changing indicators of quality and food safety in the regulatory and legal acts of the Eurasian Economical Union. *Voprosy pitaniya*, 2016, vol. 85, no. 1, pp. 110–116 (in Russian).
8. Belova L.V., Pil'kova T.Yu., Eliovich I.G. K voprosu okhrany zdorov'ya naseleniya i zashchity prav potrebiteli alkohol'noi produktsii [On the issue of public health and the protection of the rights of consumers of alcoholic beverages]. *Voprosy pitaniya*, 2014, vol. 83, no. S3, pp. 12–13 (in Russian).
9. Versan V.G. Protection of consumer rights in the single consumer market of the eurasian economic union /EAЭC/. Problems. Ways of solution. Analitika razvitiya, bezopasnosti i sotrudnichestva: Bol'shaya Evraziya – 2030: Sbornik materialov IV Mezhdunarodnoi konferentsii 29 noyabrya 2017 g. [Analysis of development, security and cooperation: Greater Eurasia – 2030: Collection of materials of the IV International Conference November 29, 2017]. Moscow, 2017, pp. 40–43 (in Russian).
10. Gorina E.A. Kachestvo i bezopasnost' kak klyucheveye trebovaniya potrebiteli k pishchevoi produktsii [Quality and safety as key consumer requirements for food products]. *Nauchno-tekhnicheskie vedomosti SPbGPU. Ekonomicheskie nauki*, 2009, no. 5, pp. 243–247 (in Russian).
11. Bochin L.A. Markirovka produktsii kak instrument obespecheniya bezopasnosti [Product labeling as a safety tool]. *Vestnik rossiiskogo khimiko-tehnologicheskogo universiteta imeni D.I. Mendeleeva: Gumanitarnye i sotsial'no-ekonomicheskie issledovaniya*, 2015, vol. 2, no. 6, pp. 119–135 (in Russian).
12. Bitzios M., Jack L., Krzyzaniak S.-A., Xu M. Country-of-origin labelling, food traceability drivers and food fraud: Lessons from consumers' preferences and perceptions. *European Journal of Risk Regulation*, 2017, vol. 8, no. 3, pp. 541–558.
13. Kosenko G.N. Vnedrenie sistem menedzhmenta bezopasnosti pishchevoi produktsii: retsepty ot auditora i konsul'tanta [Introduction of food safety management systems: recipes from an auditor and consultant]. *Sertifikatsiya*, 2008, no. 4, pp. 14–16 (in Russian).
14. Karapetyan A.R. Napravleniya formirovaniya organizatsionnoi kul'tury v torgovom predprinimatel'stve [Directions for the formation of organizational culture in commercial business]. *Nauchno-tekhnicheskie vedomosti SPbGPU. Ekonomicheskie nauki*, 2009, no. 5, pp. 247–251 (in Russian).
15. Bortoletto A.M., Silvello G.C., Alcarde A.R. Good manufacturing practices, hazard analysis and critical control point plan proposal for distilleries of cachaça. *Scientia Agricola*, 2018, vol. 75, no. 5, pp. 432–443.

16. Chipurina L.G., Grishina I.V., Boitsov A.A. Opyt vnedreniya sistemy KhAASP na rybopererabatyvayushchem predpriyatii [Experience of implementing the HAASP system at a fish processing plant]. *Rybprom: tekhnologii i oborudovanie dlya pererabotki vodnykh bioresursov*, 2007, no. 2, pp. 38 (in Russian).

17. Leonov O.A., Shkaruba N.Zh. The elements of the haccp system in the production boiled-smoked sausages. *Pishchevaya promyshlennost': nauka i tekhnologii*, 2018, vol. 40, no. 2, pp. 44–52 (in Russian).

18. Kurepina M.V. Rights to the quality and safety of the goods, works and services: legal categories, their place in the system of the subjective rights of the consumer. *Ekonomika. Predprinimatel'stvo. Okruzhayushchaya sreda*, 2012, vol. 3, no. 51, pp. 61–65 (in Russian).

19. Romanenko N.G., Skvortsova T.A., Ismatulaev R.A. Nekotorye voprosy pravovoi reglamentatsii osnovnykh prav potrebitelya v Rossii [Some issues of legal regulation of basic consumer rights in Russia]. *Nauka i obrazovanie: khozyaistvo i ekonomika; predprinimatel'stvo; pravo i upravlenie*, 2017, vol. 83, no. 4, pp. 86–88 (in Russian).

20. Khurshudyan S.A. Consumer and Food Quality. *Pishchevaya promyshlennost'*, 2014, no. 5, pp. 16–18 (in Russian).

21. Zaitseva N.V., May I.V., Sychik S.I., Fedorenko E.V., Shevchuk L.M. Analysis of legal and methodological grounds for risk-oriented surveillance over consumer products: tasks and development prospects in the Eurasian Economic Union. *Health Risk Analysis*, 2017, no. 4, pp. 4–22. DOI: 10.21668/health.risk/2017.4.01.eng (in Russian).

Osaulenko L.N. Provision of food safety and consumer rights protection in the Eurasian Economic Union law. Health Risk Analysis, 2018, no. 4, pp. 24–30. DOI: 10.21668/health.risk/2018.4.03.eng

Полечена: 26.10.2018

Accepted: 15.11.2018

Published: 30.12.2018