

REVIEW

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Albanian veterinary legislation and its approximation with *acquis communautaire*

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Abstract

After the signing of the Stabilization and Association Agreement with the European Union and its ratification by all member states, Albania has made serious efforts towards the harmonization and approximation of its legislation, to align it more with the standards of the member countries. Setting of new game rules makes Albanian society walk safer in a process of integration, where the EU principles are inserted even better in domestic laws. Core legislation, food safety and veterinary fields, are some prerequisites that Albania should meet in its way towards full membership in the EU. For a long time now, Albania has been establishing new food and feed standards and all its actions are in full compliance with EU regulations and directives. In addition to adequate policies to enforce better the current legislation in respect with an effective consumer protection, it is worth mentioning full reforming and streamlining of functioning institutions in the framework of food safety. The veterinary legislation is a main discipline of veterinary medicine regulating veterinary service relations with food business operators. It establishes legal criteria and standards for animal health and welfare protection, public health, food safety and other related areas. 'Acquis communautaire' refers to the EU's total body of legislation, i.e. everything from treaties to directives, the case-law of the Court of Justice, declarations and international agreements, etc. When a new member country is to be admitted to the EU, the point of departure is that it must satisfy the entire body of rules and regulations, i.e. the 'acquis communautaire' or the 'acquis' as it is also known, from the first day of membership. As a candidate country Albania should accept *acquis communautaire* before joining the European Union. Currently, Albania is undergoing the process of harmonization, approximation and transposition of *acquis* to the domestic legislation.

Keywords: Legislation, veterinary medicine, veterinary legislation, harmonization, approximation, transposition, *acquis communautaire*,

1. Introduction

Legal experts who have been working with the approximation of the veterinary legislation have foreseen high feed safety and animal welfare standards. The institutional structure and harmonized legislation for food safety and veterinary service have changed significantly over the last few years to meet the improved standards and requirements of a high level of inspection service. The implementation of this legislation is assisted through the preparation of manuals that contain useful reference material for every party involved in the process.

The veterinary legislation is a main discipline of veterinary medicine summarizing legal procedures and standards which govern legal relations of all public and private veterinary activities and practices, including the organization, operation, funding of veterinarian service and inspectorate, and all rights, duties and powers of veterinary administration. It regulates veterinary service relations with food business operations regarding official inspections to the benefit of food safety and consumer's guarantee.

Further, it establishes legal criteria and standards on animal health and welfare protection, public health, food safety from zoonoses, and hazardous wastes for the consumer's health of microbiological, chemical, toxic and physical character; environmental protection; control of markets and traffic of movement of animals and animal-origin products, international market, domestic market, export and their transit; hygienic-sanitary standards of veterinary medicine products; foods for human consumption and animals. It sets legal standards for the warning system on outbreak of infectious diseases, especially the pervasive ones and zoonoses; registration and identification of stockbreeding and animal farms; protection of the Albanian territory from the entrance and transmission of various diseases through the organization of permanent veterinary inspections at cross-border points. It regulates international affairs in the veterinary field, focusing on the process of integration into EU structures through the adaptation, approximation and harmonization of the Albanian veterinary legislation to the EC one. [1]

The veterinary legislation stems from and relies on internal and external sources. Internal sources

include the Constitution of the Republic of Albania which is the highest and fundamental law where the whole superstructure and functioning of the rule of law is based, and the overall legal context with the main laws or codes such as the Criminal Procedure Code, Administrative Procedure Code etc.

External sources incorporate the veterinary legislation or international standards approved by specific international organizations such as OIE, FAO, WHO, EU etc.

OIE approves the International Code of Animal Health, FAO and WHO approve the Alimentary Codices, ISO Standards, control of zoonoses etc. This body of legislation is binding on Albania, thus constituting an obligation deriving from the international obligations under the membership of Albania in those organizations. On the other hand, one of the most significant sources is the EU legislation which, during the integration process, has been subject to adaption, approximation and harmonization of our veterinary legislation to the EU one.

The National Plan for the Implementation of Stabilization-Association Agreement 2012 – 2015 has a dual purpose. Firstly, it is the basic document for all Albanian public institutions to define priorities, planning, coordination and monitoring of activities for the implementation of the Stabilization-Association Agreement ratified by Law No. 9590, dated 27.7.2006 “On ratification of Stabilization-Association Agreement between the Republic of Albania and the European Communities of their member countries”. This Agreement became effective on 1 April 2009 following the ratification by the European Union and of all its member states. [2]

Upon the ratification of the Stabilization-Association Agreement, Albania has undertaken a series of obligations to be met within the fixed deadlines. The final deadline for the fulfillment of obligations of the Stabilization-Association Agreement is 31 March 2019.

The Stabilization-Association Agreement introduces the main pillars to be elaborated by Albania in order to meet the criteria of membership in the European Union, otherwise known as Copenhagen Criteria. To be more precise, they are as follows:

- Democracy and rule of law, including the observance of human rights and protection of national minorities,
- Creation of a functional market economy, capable to cope with the pressure of competition from other EU Member States,

- Approximation of the Albanian legislation to *acquis*, establishment of administrative structures and adaption of administrative procedures to ensure the full, correct and uniform enforcement of this legislation. Article 70 of the Stabilization Association Agreement stipulates the obligation of Albania to ensure the gradual approximation of its legislation to *acquis*. [3]

The capacity of Albania to meet obligations deriving from the Stabilization-Association Agreement will serve as an expression and proof of its readiness for membership in the European Union. Further, the successful implementation of this Agreement will comprise a valuable experience for the next steps of Albania in the course of negotiation of membership in the European Union.

Secondly, based on the progress of Albania towards the European Union and the expectation for gaining the candidate country status by 2013, the National Plan for the Implementation of Stabilization Association Agreement 2012 – 2015 has the ultimate goal of prioritization, planning, monitoring and evaluation of the full approximation of Albanian legislation to the EU *acquis* as a prerequisite for membership of Albania in the European Union.

To meet these two complementary objectives, planning of further steps is required for the implementation of crucial reforms. Planning is a prerequisite for the effective coordination, implementation and monitoring of implementation and development of strategies and efforts of Albania during the short-term and mid-term period.

The National Plan for the Implementation of Stabilization Association Agreement 2012 – 2015 contains all legal measures and activities to be undertaken by line ministries, their subordinate and independent institutions to accomplish two of the above objectives over the period 1 January 2012 -31 December 2015.

2. Development of veterinary legislation

In connection with the enlargement, the EU conducts a detailed review of the *acquis* with the candidate country – so-called ‘*acquis*-screening’. As part of the *acquis*-screening, the Commission undertakes a form of technical training in the EU’s body of rules and regulations in order to give the candidate country a better understanding of the scope and content of this. This process gives the candidate country the opportunity to assess the need for

transitional periods in areas where that country does not think it would be able to comply with the requirements of the *acquis* from its first day of membership. [4]

During the process of candidate country integration, special importance is attached to recognition, adaptation, approximation and harmonization of the veterinary legislation to the EU one. In this respect, EU has approved the basic legal and technical principles and conditions which are compulsory for the veterinary services of each country aiming to accede to the community structures, to gradually meet them according to integration phases. They are formulated and summarized in two key documents, White Paper and veterinary *Acquis Communautaire*.

'*Acquis communautaire*' is a French term which means 'that which the Community has acquired'/'that which the Community has achieved'. It is the concept of the «*acquis communautaire*» which permits the EU to maintain its cohesion and to proceed with its objective of deepening, despite its increasing number of members resulting from its successive enlargements. All that has been achieved with respect to European integration up until the date a new member state accedes to the Union, constitutes an indivisible whole, the *acquis communautaire*, that each new member state is obliged to accept and effectively implement. As it stands today, the *acquis* consists of :

- the content, principles and political objectives of the Treaties (including those of the Treaty of Amsterdam);
- legislation adopted pursuant to the Treaties, and the case law of the Court of Justice;
- statements and resolutions adopted within the Union framework;
- joint actions, common positions, declarations, conclusions and other acts within the framework of the common foreign and security policy;
- joint actions, joint positions, conventions signed, resolutions, statements and other acts agreed within the framework of justice and home affairs;
- international Agreements concluded by the Community and those concluded among themselves by the member states with regard to Union activities.

No permanent derogation from the *acquis communautaire* is permitted. In exceptional circumstances temporary derogations and transitional

periods may be agreed, with the aim of allowing the new member state to gradually harmonize itself towards the *acquis* in sectors where exceptional difficulties are confronted. But the principle must be retained of acceptance of the *acquis* to safeguard the achievements of the Union. Today the *acquis communautaire* consists of about 80,000 pages, but it is continually being changed, improved and increased as the EU continues to move forward.

As a candidate country Albania should accept *acquis communautaire* before joining the European Union. Harmonization of the legislation of the Republic of Albania to the EU one represents the approximation of solutions of domestic legislation to the EU law. In the framework of EU, harmonization and cohesion of law enable a unique space of freedom, security and justice and a unique market in which economic and other related functions of the European Union are smoothly implemented.

The obligation for harmonization of the legislation of the Republic of Albania to the EU one is referred to in article 68 of the Stabilization-Association Agreement. The new Regulation of the Assembly of the Republic of Albania has foreseen that the content of each harmonized law proposal should also include data on source acts of the European Union as a distinguishing sign differentiating it from the others.

Methodology and structured harmonization of the domestic legislation to the EU one are prepared for the purpose of successful alignment of the Albanian legislation to the European one and for consistency, coordination, clear overview and monitoring of the legislation approximation process. [3]

The harmonization process is divided in four phases:

1. Preparatory phase – establishment of all institutions required for the implementation and activities of technical character such as the distribution and introduction of European legal acts in specific regions and presentation of principles for the overall harmonization.
2. Analytical phase – translation of the necessary European legal acts in Albanian language and their consolidation in the program on approximation of domestic legislation to the European one, in accordance with the pre-defined priorities.
3. Transposition phase – operational detailing of the new legislation in accordance with the pre-defined plan. During this phase the real approximation of Albanian legislation to the EU one is required. Specifically, this is the phase in which local and

EU experts prepare new draft laws or proposed amendments and additions to the existing laws or bylaws, in order to ensure compliance between the legal remedies in the Republic of Albania and the EU legislation, and finally

4. Implementation phase – not only the approval of new laws by the Assembly or amendments and additions to the present laws but also their practical adequate implementation and management with their effect produced on the present institutional infrastructure.

The first obligatory step for Albania after the signing of SAA was the acceptance of that body of EU legislation related to the domestic market specified by the White Paper adopted by EC in 1994 and already realized in large part. Meanwhile, the implementation of White Paper measures revised by EC in 2001 related to the improvement and completion of existing regulations on food safety and consumer's protection, based on the implementation of the principle of food chain "from stable to table", is compulsory for the candidate member countries or the ones close to membership.

EU Commission pursues the concept that during pre-accession phase the candidate country needs a period during which the associated countries may provide the legislation for each key area. EC has introduced "acquis" or laws for every area in such a way as to distinguish the so-called fundamental measures out of the total of implemented measures, dividing them in two levels, those of first phase requiring higher priority and those of second phase of secondary importance. Therefore, this process is lengthy and challenging. [3]

EU veterinary legislation on agriculture has been developed 40 years ago. It represented 40% of the *acquis communautaire* of which the veterinary legislation covers about 70%. EU approves and publishes each year about 1000 texts related to veterinarian legislation. In the context of measures related to the free movement of goods, the legislation contains 1000 measures or legislative acts of which only 200 are identified as fundamental measures for approximation. [2]

These acts are intended to provide the consumer's protection security, public health, animal health and welfare, establishing common rules on the movement of live animals and food products of animal origin for human consumption. The core principle that unique market is also extended to the associated countries in the veterinary field, in addition

to the approximation of legislation, aims at sustainable and well-trained administrative structures.

During the transitional period our veterinary services were oriented and focused their hard efforts on the irreversible road of integration in EU through reforming and radical transforming under the principles of free market economy.

The development of veterinary legislation during the transitional period is divided in the following phases:

1. First phase: Democratic reforms of 1992-1995, where the new democratic state launched fundamental reforms leading to the re-organization of veterinary services and establishment of the private sector alongside the public one. In these circumstances the support with a new basis of modern legal instruments was required to guide and introduce the country to the integration processes toward Euro-Atlantic structures. Accordingly, the Law No. 7674 dated 23. 02. 1993 "On veterinary service and veterinary inspectorate" was approved in 1993 as otherwise called the law of democratic beginnings in the veterinary field.
2. Second phase of 1995-2000. Initial adoption of EU legislation accepted by the Albanian authorities. A characteristic of this period and of the following period was that every legal act or bylaw to be issued had the spirit of adoption or approximation to the elements of harmonization of the EU veterinary legislation.
 - a. The first act legalizing the recognition and acceptance of EU veterinary legislation for enforcement from the Albanian Government, was the DCM (Decision of Council of Ministers) No. 646 dated 20.11.95 "On acceptance of all EU regulations and directives on veterinary conditions of marine products" which were promulgated and all other legal instruments to be subsequently adopted.
 - b. Law No. 7941 dated 31.05.95 "On Food" was adopted in 1995. This is the second fundamental law for the operation of veterinary services, particularly the one of public health and food safety.
3. The third phase of 2000-2005 is characterized by the strengthening of rule of law, where the efforts of veterinary services and their

commitment to the irreversible process of integration through adoption, approximation and partial harmonization of the veterinary legislation, were further intensified. The official relations with Brussels were gradually expanded and enhanced.

- a. In this framework, the Law No. 8702 dated 01.12.2000 "On identification of animals and registration of stockbreeding farms" was adopted.
- b. A culminating point for the legislation approximation was the approval of Law No. 9308 dated 04.11.04 "On veterinary service and veterinary inspectorate". Given its complex content and character, this law was deemed as the fundamental and integral veterinary law welcomed by the EU veterinarian structures. This emerged as a need for a law closer to EU as the previous law discharged its function without further responding to the strengthening of European integration process.
- c. Law No. 9441 dated 11.11.2005 "On production, collection and trading of milk" was approved, followed by over 30 bylaws on food safety, mainly EU ones. The first Albanian plan on monitoring of wastes was approved, as also confirmed by the EC veterinarian units. [2]

3. Recent developments

The alignment with *Acquis Communautaire*, 2006-2010, is featured by the intensification of integration process, consolidation of the rule of law, expansion, modernization and implementation of the veterinary legislation and gradual transition from the phase of adoption-approximation to the planned harmonization. To accomplish these duties the government generally approved the National Plan on Legislation Approximation, where the veterinary legislation is attached key priority.

This plan has foreseen concrete measures with the deadline, type and concrete number of acts of *Acquis Communautaire* to be translated, approximated and harmonized. The program envisages the strategy with short-term measures of 2005-2006, mid-term measures of 2007-2008 and long term measures of 2009-2014. Further, 446 texts with about 3800 pages should be completed until 2016. A large number of EU bylaws were approximated during that phase such as 30 directives and 9 regulations, including the new

food legislation and hygienic food package culminating with the approval of new law No. 9863 dated 28.01.2008 "On Food", which is approximated and almost aligned under EU Regulation No. 178/2002. In conformity with this law, a new food inspection unit was established in Albania, the National Food Authority (NFA) representing a major step ahead to the European integration and following the example of its sister institution EFSA seated in Parma.

The National Food Authority was shortly established and became fully operational in its efforts for the strengthening of food safety and consumer's protection. Historical events took place in Albania in 2009, such as its full membership in NATO, ratification of the Stabilization Association Agreement by the parliaments of EU member states and application from the government for the full EU membership.

These events further increase the demands and positive pressure of EU structures toward the road to integration through strengthening and approximation of the veterinary legislation. The Law No. 10564 "On Veterinary Service in the Republic of Albania" was promulgated in 2011. It has brought a better new climate and is launching some steps ahead toward the approximation.

Presently we may classify the Albanian veterinarian legislation in two groups: a. Package of legal acts with 4 mainly approximated laws, & b. Package including a wide range of sublegal instruments such as the hygienic food package, new package of food quality and safety, package of veterinarian inspection at cross-border points, PMV package, package of hygienic-sanitary inspection of specific food products of animal origin for public consumption and of foods for animals such as milk, meat, eggs, fish and marine products, package of main diseases of animals and zoonoses according to OIE list etc, thus constituting a solid foundation for the veterinary activity. These legal instruments are partly approximated; some are fully approximated and harmonized as well.

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