

**AGRARIAN SECTOR OF UKRAINE IN CONDITIONS OF FORMATION  
EUROPEAN MODEL OF MARKET SURVEILLANCE**

**Dmytro Krysanov,**

Doctor of Economics, Professor  
Institute of Economics and Forecasting of the  
National Academy of Sciences of Ukraine  
*e-mail: d\_krysanov@ukr.net,*

**Olga Varchenko,**

Doctor of Economics, Professor  
Director of the Institute of Economics and Business of  
Bila Tserkva National Agrarian University  
*e-mail: omvarchenko@ukr.net*

**Abstract:** *The article is devoted to the disclosure of the essence of the European market surveillance model in the member countries of the Community and its formation in Ukraine. The complex problems of transition from the post-Soviet system of control over production to European ones are highlighted. This model is based on the manufacturer's responsibility for the release of safe and high-quality food products, and the market surveillance carried out by the state for the high level of safety of the food product introduced. The compliance of food products with the requirements of EU regulatory documents is a key condition for its free movement in the single common market of the Community. The structure of normative documents on which the European model of food safety is based are revealed. The problems, which are revealed during independent audits by producers of agro-food products, are generalized. Methodical approaches for introduction of constantly operating safety procedures at small capacities of the food industry and farms for the production of primary products have been developed.*

**Key words:** *agrarian sector, market supervision, food safety, market operator, export power, basic programs.*

**JEL Classification:** Q10, Q18

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**Formulation of the problem**

One of the key goals when signing the EU-Ukraine Association Agreement was to "introduce conditions for enhanced economic and trade relations that will lead to the gradual integration of Ukraine into the EU internal market, including through the establishment of an in-depth and comprehensive free trade area, As defined in Section IV ("Trade and Trade-related Issues") of this Agreement and to support Ukraine's efforts to complete the transition to a functioning market economy, including through the gradual adaptation of its legislation To the EU acquis "[1, art.1] and others. Consequently, in UA, a course is underway to complete the formation of a national market economy type, the introduction of regulatory mechanisms and instruments that will be equivalent to those operating in the member states of the European Union. The term "equivalent" means the following: recognition of the system of the permanent official control of production and circulation of products and raw materials of animal origin of the European Union for the system of ensuring the safety and quality of food products of Ukraine [2].

The active realization of practical steps in the main directions began in fact from the second quarter. 2014, in particular: Ukraine has been granted a preferential trade regime by 2015, and since 2016 the EU-Ukraine UAU Section, which was gradually decreasing, as well as the abolition of import and export duties and the creation of a free trade zone, entered into force.

With the signing of the UA, the spectrum and scale of the challenges for the national economy, especially for the agrarian sector, expanded significantly, the list of problems, risks and threats that the emergence and distribution of which could provoke a chain reaction of negative consequences has increased. This has posed a series of complex and diverse tasks to the agrarian sector, the comprehensive and operational solution of which will largely depend on the progress towards its integration into the internal market of the Community. Such tasks include the following:

- complete the adaptation of the legislative and regulatory framework of Ukraine to the fundamental principles and requirements of the legal and regulatory framework of the European Union;
- to continue the "splitting" of the framework and basic laws of Ukraine for the purpose of differentiating the main provisions in the field of food consumer rights protection, their consolidation in new legislative and regulatory acts for the purpose of practical realization;
- complete the transformation of the post-Soviet regulatory system of Ukraine into the equivalent of a basic regulatory model operating in the EU;
- To form a national food safety system in accordance with the requirements of the model of food safety and animal feed introduced by the EU;
- to introduce sanitary and phito sanitary measures in the agricultural sector in accordance with the European requirements of the SPS (Sanitary and Phito sanitary Steps) in order to prevent the occurrence of threats to the life of the population and the health of consumers, flora and fauna, and the environment;
- complete the formation of a network of accredited conformity assessment bodies (OIVs) based on the principles introduced in the EU;
- complete the formation and establishment of state market supervision of compliance with regulatory requirements in the field of food and animal feed safety in accordance with the model of market surveillance carried out by the state in the EU member states, etc.

It is appropriate to emphasize that state market supervision over compliance with regulatory requirements in the field of food safety is the top of the above-mentioned vertical tasks, which is based on the legislative and regulatory framework of technical regulation, harmonized with the requirements of European legislation. On this basis, there is a more detailed elaboration of food safety requirements, in particular: the parameters of the safety of food and animal feed are mandatory and are therefore enshrined in the technical regulations, and quality indicators are voluntary and therefore included in the standards. Compliance with the requirements in the field of safety and quality certified using CAB conformity assessment procedures. That is why a deep and comprehensive analysis of the situation that has emerged and permanently transformed in the field of market surveillance in Ukraine, as well as its role in prompting the introduction of permanent safety procedures based on the HACCP principles in agrarian sector enterprises will allow to assess real trends, new challenges and problems that need timely and comprehensive solution. At the same time, given the key role of the regulatory regime, the model of which is introduced in the Member States, it is important to disclose its notable characteristics in order to more objectively perceive the changes that are taking place in shaping the new market surveillance structure in Ukraine.

### **The main results of the study**

Market surveillance activities carried out by public authorities are an integral part of the technical regulation system, which has been in place for almost ten years in the member states of the Community. Market supervision is carried out at the stage of obtaining and using the final results of production and other activities, that is, with the marketing of products. In a broad sense, products include industrial, food, medicines and medical products, as well as compliance with safety requirements on objects and transport and production processes, the functioning of which poses a potential threat to the health of the staff and passengers.

In retrospect (over forty years) EU legislation on goods (products, raw materials, etc.) has passed four stages when it finally came to market supervision, namely:

- 1) traditional or "Old Approach" with detailed technical and administrative requirements for products (until 1985);
- 2) "New Approach" (May 1985), which narrowed the role of legislation to "substantive requirements" (I e performance or functional requirements), and technical specifications for products and processes went beyond the scope of standards, and this was accompanied by the development of standardization;

3) the development of conformity assessment instruments in 1989-1993 with the aim of implementing acts of the Union Harmonized Legislation, general guidelines and detailed conformity assessment procedures (conformity assessment modules);

4) The "New Legislative Framework" (developed in 2003-2008), which was based on the New Approach and ensured the introduction and use of effective tools for assessing compliance, accreditation and market surveillance [3, p. 2-7]. Consequently, the path was followed: from the elimination of barriers and the free movement of goods in the single market, through the promotion and application of the principle of mutual recognition of products (manufactured or sold in the market in one member state should move across the Union without interruption if it meets the levels, Equivalent to that established by the importing country), until the market entry is secured and compliant with the Harmonized Union law (technical regulations and harmonized standards) of products, but it must facilitate effective consumer protection.

The most systematic new legal framework laid down in Regulation (EC) №765 / 2008 [4]. They include the following components and / or provisions: material or other legal requirements, product standards, standards and rules for the competence of conformity assessment bodies and accreditation bodies, quality management standards, conformity assessment procedures, CE marking, accreditation and market surveillance policies, including control of products from third countries. The CE mark signifies the conformity of the products to the Union legislation applicable to those products and requires the CE marking to be affixed. All of these elements are interconnected, work together and complement each other, forming a chain of quality in the European Union. If one of the elements is missing or weak, the strength and effectiveness of the entire "quality chain" is threatened [3, p. 8].

The 2014 Blueprint notes the following: market surveillance is aimed at ensuring that products meet the applicable requirements, while ensuring a high level of protection of public interests such as health and safety in general, health and safety at work, protection Protecting the environment and security, while ensuring that the free movement of products is not limited to the extent permitted by the Harmonized Union law or any other relevant Union law. Market surveillance guarantees citizens an equivalent level of protection throughout the single market regardless of the origin of products. In addition, market surveillance is important for the interests of economic agents, because it helps to get rid of unfair competition [3, p. 101].

The appeal to the Blue Guide on the implementation of the EU rules on products in 2014 [3] and its application to market surveillance in the field of food products requires some explanation. As stated in clause 1.5, the scope of this Guideline applies to non-food and non-agricultural products, which are referred to as industrial products or products for use by consumers or professionals. Legislation relating to these products will be mentioned in the text as Harmonized Union legislation, sectoral Harmonized Union law or acts of the Harmonized Union Legislation [3, p. 11]. However, the elements of this Guideline may also be relevant for another Harmonized Union law that goes beyond the scope of industrial products. This is especially true for the various definitions in the Guide, as well as in the chapters relating to standardization, conformity assessment, accreditation and market surveillance [3, p. 12], which are set out on pages 36-121. Consequently, the listed components of technical regulation have a unified legislative and regulatory framework, regardless of which products of any kind and origin, ultimately, will be subject to their regulatory action. At the same time, taking into account the peculiarities of food products and their high potential danger for consumers in cases where the requirements stipulated in the technical regulations and standards are violated, these key differences are ensured through the implementation of a number of diverse measures, in particular:

- introduction of food and animal feed safety systems at the enterprises of the agrarian sector of Ukraine, which will be equivalent to the food safety model operating in the EU member states;

- implementation of sanitary and phyto sanitary measures in the agrarian sector in accordance with the European requirements for the same SPS;

- Harmonization of domestic technical regulations and standards related to the agrarian sector, with relevant European and international regulatory documents;

- ensuring the recognition of the National Accreditation Agency of Ukraine (NAAU) by the European Association for Accreditation (EA), the International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF) for the purpose of Recognition of their

accreditation systems is equivalent. This will create the necessary conditions for the introduction of mechanisms for the mutual recognition of safety and quality certificates, certificates and test protocols conducted in Ukraine and the member countries of the aforementioned European and international accreditation institutions, as well as issuance of permits for the import of products and other biological materials of animal origin into Ukraine, etc.

We emphasize that the corresponding work on the indicated directions is being carried out since the end of the 1990s and, therefore, approximately the beginning of the 2020s will be necessary grounds for the recognition of the equivalent domestic technical regulation system with the model of technical regulation introduced in the EU member states. This will be an objective basis for the unhindered promotion of products of the domestic agrarian sector to European food markets. We emphasize products that meet the regulatory requirements introduced in the EU for similar products.

With regard to the introduction of market surveillance, it is associated with positive changes in the field of entrepreneurship and the introduction of fair competition, the impossibility of putting into circulation of dangerous and poor-quality products, and thus ensuring the protection of life and health of humans, animals, plants and the environment, the observance of consumer rights for safe and high-quality food. The basic norms and principles of market surveillance in the member states of the European Union are set out in various legislative acts. In particular, in the Directive 2001/95 / EC of the European Parliament and of the Council "On general product safety" (dated 03.12.2001), a number of basic provisions have laid down not only the foundations, but also guidelines for the introduction of market surveillance (preamble of the directive: 6; 19; 23; 25; 39). At the same time, the same Directive provides for the introduction of a number of responsibilities for the Member States in order to ensure the effective functioning of state market surveillance (Article 2, paragraph 1, Article 2, paragraph 2, item 7), in particular:

- Member States should ensure that manufacturers and distributors fulfill their responsibilities for the safety of products placed on the market;

- Member States shall establish or designate bodies which carry out continuous monitoring of the obligation to supply only safe products to the market and provide such authorities with the necessary powers to take the measures required by this Directive;

- Member States should lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and to take all measures necessary to ensure that they are implemented; Penalties must be effective, proportionate and dissuasive.

Almost all EU member states usually have at least four specialized market surveillance authorities. In particular, they deal with food products, medical products, industrial products and work / safety related issues. Within the food sector there are certain exceptions. For example, food products used in catering services are usually not within the competence of market surveillance authorities.

In line with EU practice, the Community does not legislate for member states to address safety issues. There are various Directives that apply to certain product groups: for example, food products, toys, chemicals, cosmetics. In addition, there is Directive 2001/95 / EC on general product safety, which applies to all types of goods and therefore relates to safety requirements, regardless of whether there is a separate Directive for this type of product.

The European Union is working through the Directives, which, if approved by all members, should be implemented in the legislation of each Member State of the Community. The Directive is adopted by the Council of Ministers (I e, representatives of the governments of member countries) [5, p. 9 - 10].

The European Union is the result of agreements between Member States on the joint implementation of certain actions identified in a series of formal agreements. The main and still the most important goal is to create a single common market in which businesses can trade wherever they need it, and where consumers can buy goods wherever they are, without difficulty and complications created by different national laws and market Cultures. The goal of the single market is to promote competition, and thus to improve business efficiency and achieve economic growth.

Compliance with all Directives (known as "EU rules" - in the original *acquis*, from the French word, which means "accumulated experience") is a requirement for countries wishing to enter the Community. The benefits to consumers should have been ensured by the efficient operation of the

market, and consumer issues should be considered in connection with the development of the single market. Thus, consumer issues were seen as part of changes in contractual legislation, transport policy, competition, food safety standards and safety, etc. [6].

From the mid-1970s, the situation continued to change gradually, but only with the adoption of the Maastricht Treaty of 1993 it became possible to adopt Directives on consumer rights that were not directly related to market integration or harmonization. This led to the creation within the structure of the European Commission of a separate Directorate of Consumer Policy. Subsequently, the issue of health and food safety has also been included in its area of responsibility, and is now known as the European Union Directorate General for Health and Consumer Protection) - DG SANCO. The European Commission (EC) also manages hazard warning products, that is, when there is a problem in any country, other EU member states (as well as countries outside it) receive information quickly and, if necessary, can apply appropriate measures to its territory. The two most important warning systems are: RASFF (European Rapid Alert System for Food and Feed) - European Rapid Alert System for Food and Feed Pollution; RAPEX (Rapid Alert System for non-food products posing a serious risk) - Rapid alert system for non-food products posing a serious risk.

The EU consumer policy, as noted by foreign and domestic experts [6, p.7], is not an integral system of relations that would regulate all aspects of consumer protection. The EU Directive is a rather variegated structure that regulates certain areas in detail, but others remain unregulated. It should be emphasized that individual EU member states are still responsible for the integrity of their own consumer policy and consumer rights. The EU Directives contain minimum standard features in selected areas, especially those affecting the domestic market. EU Member States have the right to exceed the standards provided for in consumer protection directives, provided that their norms do not restrict the free movement of goods and services within the internal market. As a consequence of the foregoing, EU Member States have created consumer protection systems that vary widely. In some cases, these differences hindered the functioning of the internal market. For example, there are significant differences between the law governing the business activities of enterprises aimed at the end user in the domestic market, caused by national specifics, and differences in general principles or different legal practices. In general, the regulation of the consumer sector in the European Union can be divided into two general categories:

- horizontal directives: General Product Safety Directive 2001/95 / EC; Directive 97/55 / EC on misleading advertising, as amended by the Comparative Advertising Directive 84/450 / EEC; Indicative Directive 1998/6 / EC; Directive on unfair terms in consumer contracts 93/13 / EEC; Consumer Product and Associated Guarantee Directive 99/44 / EC;

- sectoral (or vertical) directives: Food Directive 2000/13 / EC; The Cosmetics Directive 76/768 / EEC; Directive on the designation of textile products 96/74 / EC; Directive on medicinal products for human use 2001/83 / EC; Directive 90/314 / EEC on package tours; Directive on the protection of consumers in the field of outsourcing 85/577 / EEC; Consumer Credit Directive 87/102 / EEC; Directive on distance contracts 97/7 / EC; Measuring Instruments Directive 2004/22 / EC; Directive on the acquisition of the right to use immovable property for a certain period of time 94/47 / EC.

In the context of guaranteeing the systemic protection of consumer rights, the principles of market surveillance were formulated. Enforcement of the legislation of the European Union is the responsibility of the Member States of the Community: Article 10 of the EU-Treaty requires the Member States to take all necessary measures to ensure the fulfillment of their obligations under this Agreement. Market surveillance is an important tool for ensuring the implementation of the New Approach Directives, in particular through measures to verify compliance of products with current directives, the use of measures to bring inappropriate products into compliance, and the application of sanctions where appropriate. In addition to the implicit (hidden) obligations contained in the Agreement, Community legislation contains explicit requirements for the conduct of market surveillance activities by EU Member States. The principle of prioritization of the lower level of decision-making is applied, so the Member States of the Community should independently determine the administrative structures that will be used to fulfill their obligations in this area.

The implementation of market surveillance is the responsibility of public authorities [7, p.12]. In particular, this ensures the impartiality of market surveillance activities. Each EU member state can

independently decide on a market surveillance infrastructure; For example, there are no restrictions on the division of responsibilities between authorities on a functional or geographical basis, provided that supervision is carried out effectively and covers the entire territory. As a result, the legal and administrative infrastructures of market surveillance in different Member States differ from one another. This requires, in particular, effective administrative cooperation between the competent national authorities to ensure an adequate level of protection throughout the European Union, despite the fact that the competences of market surveillance bodies are limited to the territory of a single Member State of the Community. Market surveillance authorities should have the necessary resources and authority to carry out their supervisory activities, in particular to monitor the withdrawal of products on the market and, in the event of their non-compliance with applicable requirements, to take the necessary measures to ensure compliance.

At the same time, supervisors should be independent and exercise their activities impartially and without discrimination [7, p.12-13]. In addition, supervisors should conduct market surveillance activities, taking into account the principle of proportionality, i.e., actions must be comparable with the degree of risk or inconsistency, and the restrictions on the free distribution of goods can not exceed what is necessary to achieve the goal of market surveillance. Supervisors may engage third-party service providers to perform certain technical tasks (such as testing or verification), provided that they remain responsible for their decisions and that this will not cause conflicts of interest between the activities of assessing compliance with this organization and its tasks. By resorting to such measures, supervisors should monitor very closely the provision of the indisputable impartiality of the consultations received. The responsibility for any decisions that will be taken on the basis of such consultations will be borne by the supervisor. As a rule, the responsibility for market surveillance is unacceptable for the competent authorities. In order to prevent conflicts of interest, it is necessary to provide a clear distinction between two consecutive but fundamentally different stages of product control: the conformity assessment (preceding the withdrawal of products to the market) and market surveillance (which is carried out after the product is put on the market).

All of the foregoing points to the extremely high level of attention paid to the organization and implementation of public food market surveillance in the Member States as a last resort in protecting the interests of consumers of food products. Since Ukraine is actively pursuing European integration, it is important to analyze the real progress made in terms of moving towards a European model of market surveillance, achievements and shortcomings on this path. And, in our opinion, it is appropriate to take the adoption of the relevant resolution of the Government of Ukraine [8] in September 2014 for a reference point. One of its important results was the creation of the State Service of Ukraine for Food Safety and Consumer Protection [9]. This process was formally delayed by the end of April 2016 [10] (that is, about 20 months), but it took even more time for active inclusion in the fulfillment of the functions and powers assigned to the State Committee for Consumer Safety (hereinafter - the Services). The entry of the Service in the legal framework and the effective performance of the functions of state market supervision will depend to a large extent on the operational resolution of the issues outlined in the Comprehensive Strategy 2020 [11], in particular:

- further expansion of the legislative and regulatory framework, in particular, the introduction of the draft law for the State Committee for Civil Proceedings and Consumer Protection, as well as a number of subordinate regulations;

- Completion of the formation and strengthening of the network of territorial bodies of the Service with the relevant material support, filling vacancies by highly qualified specialists with knowledge of English;

- Completion of the formation and optimization of the territorial network of accredited OVS, providing them with modern laboratory equipment, qualified personnel with knowledge of modern methods of conducting researches (tests) of selected samples of products and professional knowledge of the English language;

- Completion of the HACCP implementation at large and medium-sized enterprises, as well as bringing the small capacities of the food industry into line with the minimum requirements of the basic programs (programs-prerequisites);

- Deployment of works on the audit of business entities in primary production (agriculture, forestry, fisheries) for compliance with the minimum requirements of the basic programs, development of its results and implementation of a set of works to eliminate identified discrepancies and measures for the training of technology personnel for the professional fulfillment of program requirements -prerequisites and other permanent safety procedures;

- the period of time necessary for the full and complete "entry" of the Service into the business environment with a view to actively influencing the food safety situation and gaining a positive image among the national market surveillance systems of the Member States of the Community and those countries that recognize the safety system Food and animal feeds introduced in the EU, etc.

For a long period of time, the stumbling block was the absence in the Law of Ukraine "On State Market Inspection and Control of Non-Food Products" (from 02.12.2010 № 2735-VI) of the provisions relating to the control of the safety of food products. In this regard, a draft law on state control was carried out in order to verify compliance with legislation on the safety and quality of food and feed, health and welfare of animals. It was developed with the participation of experts from the European Union and harmonized with the basic European legislation in this area, in particular: EU Regulations № 854/2004, № 882/2004, №669 / 2009, Directive of the Council of the EU № 97/78 of the EU. In the first reading, the Supreme Rada of Ukraine adopted the bill dated 22.07.2014, in the second, repeated after revision, taking into account the comments made, reading - 18.05.2017, and for signature it was sent to the President of Ukraine on 05/26/2017. The new wording of the Law The following: "On state control over observance of the legislation on food products, feed, animal by-products, animal health and welfare" (from January 18, 2017, No. 906) [12]. Within fifteen days after receiving the law, the President of Ukraine signs, accepts it and officially promulgates it, or returns the law together with his motivated and formulated proposals to the Supreme Rada of Ukraine for re-examination. The probability of signing is high.

Consequently, there are sufficient grounds for assessing the state of market surveillance through the main provisions of the law. At the same time, since the new system of state market supervision has been around for a whole year now, they require an objective assessment of changes that have already occurred and occur in the structure, functions and powers of the territorial bodies of the Service, taking into account the requirements of the framework law of Ukraine on food safety [13]. Therefore, it is appropriate to quote the words of the Chairman of the State Committee for Consumer Goods and Consumer Protection, in particular: the adoption of the bill number 0906 will allow the introduction of an effective control system and anticipate instruments that minimize corruption. "On the one hand, it allows to effectively perform functions of state control: for example, when there is a risk to the life and health of citizens, verification of economic entities will be carried out without warning. On the other hand, its adoption provides additional opportunities for ensuring business rights, eliminating corruption risks, in particular, by conducting video-fixing procedures for inspections not only by inspectors of the State Committee for Consumer Goods, but also by business entities, "added Volodymyr Lap [14].

It is worth to emphasize that the establishment of the Service is now under way as:

- the central executive body (CEB), which forms and ensures implementation of the state policy in the field of safety and separate indicators of food quality;

- CEB, which implements state policy in the field of safety and separate indicators of food quality (competent authority);

- the CEB, which establishes direct contacts with the countries to which the food products of domestic production will be exported, and specialized international organizations;

- the body which forms material, financial, human resources, organizational, managerial, informational and other support for the purpose of effective activity of its territorial divisions;

- the body that optimizes the territorial network of departments, laboratories and other structures, as well as separates the assigned functions between public and private structures, which will be performed within the framework of the established competence;

- a body that organizes and carries out state control, including on agro-food markets and on the border of Ukraine with regard to imported food products;

- the body that exercises state control over the implementation of permanent safety procedures based on the principles of the system of analysis of hazardous factors and control at critical points (HACCP system);

- the body that organized and conducted within the framework of the EU Project "Improvement of the Food Safety Control System in Ukraine" training on compliance with European requirements 500 Ukrainian veterinarians and other specialists (63.6% of them received the HACCP auditor's certificate), in order to implement Ukraine has a risk-oriented system of official control, which has been successfully operating for almost ten years in the member states of the Community, etc

According to the UAE last year, Ukraine has undertaken to provide an equivalent European level of state control over market operators. In this regard, the main auditors of the objective assessment of their compliance with market operators are put forward in the foreground, in particular: authorized persons (natural and legal persons authorized by the competent authority), state inspectors, state veterinary inspectors. State control in the field of food safety is carried out in order to verify the compliance of the market operators, on the one hand, with the implementation (implementation) of sanitary and / or phyto sanitary and / or veterinary and sanitary measures, and, on the other hand, compliance with the requirements of legislation on food products Animal origin, animal fodder, animal by-products, hay, straw, animal health and welfare. The market operators include: food market operator, primary market operator, feed market operator, food service operator, market operator for the handling of by-products of animal origin (for the purposes of Section VII of Law No. 0906).

To date, there is a significant gap in the implementation of ongoing safety procedures between enterprises in the agrarian sector of the economy, which have been engaged in foreign trade activities (mainly large exporters of food products) that have been operating in the domestic market for a number of years and have not yet begun. In order to overcome it, the Ministry of Agrarian Policy and Food (IAAP) conducted a series of seminars in the regions on the topic: "New Food Legislation. Official control of market operators. Rights and obligations of the competent authority and market operators. Practical Aspects ". They said that it was carried out within the framework of the EU Project "Improvement of the Food Safety Control System in Ukraine". Over the past two years, such seminars have become familiar with the new legislation and have been trained by over one and a half thousand representatives of medium and small businesses in the food industry.

Considering that the production of food products originates from the cultivation of raw materials of plant and animal origin, it is advisable to systematize the regulatory framework for food safety. The hierarchy and structure of regulatory documents governing the fundamental issues of food safety, both in retrospect and in accordance with their legal status, can be presented in tabular form. Listed in the table 1 the list of basic normative documents (not exhaustive) is periodically reviewed and necessary changes are made to them.

**Table 1. The structure of normative documents of the European Union and Ukraine that regulate the safety of food products and animal feed \***

<b>№</b>	<b>EU regulatory documents</b>	<b>Name of regulatory documents of the EU and Ukraine</b>
<b>1</b>	<b>2</b>	<b>3</b>
1	Directive 2002/99 / EC	On the establishment of sanitary rules for the regulation of production, transformation, distribution and importation of animal products intended for human consumption;
2	Regulation No. 178/2002 / EC	On the establishment of general principles and requirements of food law, the creation of a European Food Safety Authority and the establishment of procedures in matters related to food safety;
3	Regulation No. 852/2004 / EC	Concerning food hygiene;
4	Regulation No. 853/2004 / EC	On the establishment of special hygiene rules to be applied to food products of animal origin;
5	Regulation No. 854/2004 / EC	On the departmental control of certain products of animal



		origin intended for human consumption;
6	Regulation No. 882/2004 / EC	About official control measures to ensure compliance with fodder and food law, health and animal protection regulations;
7	Decision No. 1691/2004 / EC	The sanitary and veterinary-certification conditions necessary for the importation into the Community of milk which has undergone heat treatment, milk products and raw milk intended for human consumption;
8	Regulation 396/2005 / EC	On the maximum allowable levels of pesticides in food and feed of plant and animal origin;
9	Regulation No. 2073/2005 / EC	On Microbiological Criteria for Food Products
10	Regulation No. 1881/2006 / EC	On establishing maximum levels of certain pollutants in food
11	Regulation No. 605/2010 / EC	On the establishment of veterinary and sanitary conditions, as well as the conditions for veterinary certification for the import into the European Union of raw milk and dairy products intended for human consumption
12	International standard of ISO series 9000	A series of international standards that systematize the requirements for quality management systems of organizations and enterprises (the latest Ukrainian version of DSTU ISO 9004: 2012 - Management to achieve a sustainable success of the organization - Approach from the standpoint of quality management);
13	International standard of ISO series 14000	Environmental management systems (DSTU ISO 14001-97 - Environmental safety management systems);
14	HACCP system	Analysis of hazardous factors and critical control points (Ukrainian version of DSTU 4161-2003 - Food safety management systems - Requirements);
15	International standard ISO 22000: 2005	Food safety management systems. Requirements for any food chain organization (Ukrainian version of DSTU ISO 22000: 2007);
16	International standard ISO 22005: 2007	Traceability in feed and food chains - General principles and basic requirements for the development and implementation of the system;
17	GMP + FSA module	Ensuring the safety of feed at all stages of production and supply of feed (the consumer is guaranteed the confidence that feed products are produced, processed, sold, stored and transported in accordance with established requirements). Initiated and developed in 1992. The module is universal and has received international recognition, combines the principles of HACCP and the quality system ISO 9001, the certification of enterprises is possible by 13 standards;
18	GMP + FRA module	Ensuring feed responsibility (consequences of their (ie, producers) actions, in particular regarding the use of soy and soya products and fish meal, for the population, animals and the environment in addition to profits);
19	Private standard	Developed by the British Retail Consortium for Food Safety and Quality [15, p. 129-130];
20	BRC Food Safety Standard	Developed by the German company QS Quality and Safety [27, p. 125];
21	Private Q & S standard	A specialized standard for special fodder ingredients and their mixtures is used as an instruction manual for the introduction of a feed safety management system. Developed by representatives of the feed industry in 2004. Acquired official recognition by the European Commission [15, p. 127 - 128];
22	Private standard FAMI-QS	The system of 16 standards was developed by EUREPGAP and intended for certification of plant, livestock, horticulture and aquaculture. Revised every four years. It covers the following areas: food safety and traceability; Environmental protection, taking into account biodiversity; Health care, safety and welfare of farm workers; Welfare of animals; Integrated crop management, integrated plant protection, quality management system and risk analysis and critical point control system, and extends to additional aspects of production, such as supply chains and fodder production [15, p. 122-124];

23	Private standard GLOBALG.A.P.	Programs of mandatory preliminary food security measures (Preconditions for food safety) - Part 1: Production of food products;
24	International Standard / Specifications ISO / TS 22002-1: 2009	Programs of obligatory preliminary measures for ensuring (Preconditions for food safety) - Part 3. Production of agricultural products;
25	International Standard / Specifications ISO / TS 22002-3: 2011	Programs of mandatory preliminary food security measures (Preconditions for food safety) - Part 4: Production of packaging for food products;
26	International Standard / Specifications ISO / TS 22002-4: 2013	Preventive Necessary Prevention Programs (Preconditions for Food Safety) - Part 5: Transportation and Storage.

\* Source: [Compiled and systematized by D.F. Krysanov; Practical guide for an agrarian exporter to the EU. Issue 1 - Kyiv-Berlin: Ukraine's Counseling on Agrarian Trade - within the framework of the Comprehensive Free Trade Agreement (FTA) between the EU and Ukraine, 2016 - 140 pp.]

At the same time, it is necessary to mention another departmental document prepared by MAPP. "REQUIREMENTS" [16] are based on the principles of HACCP, but there are some very important explanations and remarks, namely:

- they are mandatory, but apply only to operators of the market for the production and / or circulation of food products, i e, attention is focused only on processing capacity [16, p. 1.7];
- the range of used normative documents (HACCP, prerequisites, codes of good practice) is expanding considerably, as well as a significant increase in the set of tools for ensuring compliance with safety requirements, in particular: implementation of HACCP; Implementation of the minimum requirements of the programs-prerequisites; Development and introduction of proper (industrial, agricultural, agricultural, sanitary, veterinary) practices for a particular type of market operators; Introduction of flexible or simplified procedures based on HACCP principles, taking into account the level of product safety;

- the requirements of European legislation on primary production (rural, forestry, fisheries) are significantly different: vegetable products are much simpler than those related to products of animal origin or processing and food production. However, the lack of direct guidance on the implementation of systemic methods of safety by farms of primary production, as well as their differentiation depending on the level of safety of a specific type of food raw material can be regarded as a real omission of these "REQUIREMENTS" and therefore requires more thorough study of this issue.

At the same time, domestic experts note that for practical implementation of the main provisions of the Law No. 0906 it is necessary to adopt approximately 80 legislative and subordinate acts annually for the next few years. By-law includes decrees and orders of the Cabinet of Ministers of Ukraine, orders of various CEBs (MAPP, Ministry of Health, State Committee for Consumer Safety), and other normative documents to be developed and agreed upon with the said law. Regarding a new wave of laws, the projects are already being developed and the following are being examined: On the safety and hygiene of feed; Information about food information for consumers; On requirements for objects and materials in contact with food products; About using statements about health benefits; About the latest foods and more.

Unlike the Soviet and post-Soviet systems of technical regulation, which were based on the postulate of unconditional government control following the requirements of Soviet and ex-Soviet standards, the European model of technical regulation places responsibility on the issue of safe and quality food products on its producer. It is about introducing a preventive approach to controlling food safety instead of dealing with the consequences of violations of regulatory requirements. Control takes place throughout the food chain, but within the responsibility of a particular market operator at the stage of the technological process. This allows to identify the threat of violations of requirements in the early stages, and thus prevent the dangerous product from entering the consumer. This requirement is implemented in the form of mandatory introduction of the Food Safety Management System on the principles of HACCP [13, II. Final and transitional provisions of clause 1.1]. In particular, in all establishments producing food products containing unprocessed ingredients of animal origin, HACCP (with the exception of small capacities) should be implemented by September 20, 2017. For the remaining enterprises (with the exception of small capacities) - until 20.09.2018 On small capacities -

until 20.09.2019 At the same time, a number of exceptions are envisaged, the possibility of introducing simplified procedures on the principles of HACCP (trade and confectionery enterprises, mini-bakery, public catering establishments).

Small capacities are grouped by the following parameters:

- The capacity of the food supply to the final consumer has no more than ten staff members (i.e., excluding managers and accountants), covering an area of no more than 400 square meters. M
- Capacities that do not supply food to the end consumer and have no more than five employees.

The remaining small enterprises, with the exception of the Group III small capacity groups, should be included in Groups I and II according to product specialization (products of animal or other origin) and are fully covered by relevant legislation.

There are no statistics on small capacities in Ukraine, but 5502 units of the total number of enterprises. [17, p. 109] small among them:

- with a number of 10-49 employees - 1218 enterprises;
- with a number of employed up to 10 people - 3268 micro enterprises.

Consequently, the estimated total number of business entities in groups I and II (without small capacities) is respectively 750 and 1500 (a total of 2250) producers. According to the latest data, 1340 different management systems have been certified in the food industry, while 338 systems are still under development and implementation at 979 (410 + 569) enterprises. Thus, the coefficient of implementation of various functional safety systems in Group I is 55%, in II - 38% (in both groups - 43.5%). This allows us to make a logical conclusion that either there is a significant lag in the implementation of HACCP in the first group or the statistics do not generate trust. The indicators we calculated are estimated - they are obtained on the basis of comparison of official statistics with the data of regional departments of agro-industrial development, based on the results of conducted by the industry associations monitoring the implementation of HACCP.

With regard to low capacity, manufacturers should determine themselves, depending on the level of safety of a particular type of food raw material, which of the ongoing safety procedures will need to be implemented. The following technical specifications (ISO / TS 22002-1: 2009 and ISO / TS 22002-3: 2011) describe the minimum requirements for the establishment, implementation and maintenance of basic programs (BPs) aimed at helping to manage hazardous food safety factors. It is assumed that the implementation of its provisions should be made by skilled and experienced personnel who can competently implement the requirements of these specifications.

To this end, owners of small capacities should independently carry out an internal audit on compliance with the minimum requirements of the basic programs (ISO / TS 22002-1: 2009 Program of mandatory preliminary measures for the safety of food products - Part 1: Production of food products) and, according to its results, ensure Eliminate detected nonconformities and introduce permanent safety procedures. In the future, they can acquire the "right of citizenship" after an audit by the specialists of the Service and confirm the compliance of the facilities with the minimum requirements of the pre-program requirements by the signed by them act of the established form. In this regard, the MAPP must prepare a draft order "On Approval of the form of an act compiled on the basis of the results of the state audit on the compliance of market operators with the requirements of the legislation regarding permanent procedures based on the principles of a system of analysis of hazardous factors and control at critical points" and to give effect to it. In accordance with the requirements of the legislation.

The State Procurement Administration, in accordance with the orders of the MAPP of Ukraine (dated February 10, 2016, No. 38, No. 39, No. 40), serves as the state registrar and is responsible for the maintenance of state registers, in particular:

- State Register of Capacities of Market Operators (Order No. 39) - 152672 units registered. (As of May 26, 2017);
- the register of approved export capacities (food products) (№ 38) - 715 units registered. (As of May 3, 2017);
- the register of market operators and capacity of food products for which the operating license was issued (No. 40), - 1033 units registered. (As of May 19, 2017).

It should be noted that operating permission is given to market operators and capacity who carry out activities related to the production and / or storage of food products of animal origin. The aforementioned also include the power that is a vehicle or other movable property (refrigerator, fishing and freezing vessel, moving power for the collection of food raw materials, etc.).

Thus, the work on registration of market operators and food products has become much more active, which will allow, upon the set date, to get a more complete picture of the implementation of one of the important provisions of the framework law of Ukraine on food safety [13].

Initial manufacturers are not required to implement HACCP, but the Law [13, art. 40] establishes general requirements for market operators of primary products, compliance with which will contribute to the safety of food products. This concerns the observance of the sanitary and hygienic conditions of production and the necessary measures to manage the hazards and prevent their impact on public health and the environment. In this regard, it would be advisable to distinguish between two groups of primary producers as a result of differences between requirements to them [17, p. 95], namely:

- 1) producers of products of animal origin: a) animal husbandry - 2426 farms; B) mixed agriculture - 1028 farms; C) fish farming - 881 farms;

- 2) producers of products of plant origin: a) cultivation of annual and biennial crops - 38856 farms; B) cultivation of perennial crops - 1121 farms; C) reproduction of plants - 159 farms.

The preparedness of the producers to supply safe primary products to the processing capacity can be established by self-auditing to meet their own production requirements to the minimum requirements of the basic programs (ISO / TS 22002-3: 2011 Program of mandatory preliminary measures for the safety of food products. Part 3. Production of agricultural products). According to its results, a substantiated conclusion regarding the compliance of the operators of the primary product market with the minimum requirements of the program prerequisites may be made, in particular: a) they fully respond; B) Operational intervention is necessary to solve simple problems and eliminate imbalances; C) requires significant improvement of production, sanitary and sanitary-veterinary conditions; D) it is advisable to direct products to meet the own needs of those producers who do not adhere to the minimum requirements of the programs-prerequisites [18, p. 348-339].

Inadequacy of the minimum requirements is eliminated by developing and implementing a complex of measures and the introduction of permanent procedures in order to ensure compliance with the specifics of the specific production. Upon completion of the elimination of inconsistencies, the farm invites the specialists of the State Committee for Consumer Goods and Consumer Protection. After the inspection, an act is signed on the compliance of the operators of the primary production market with the requirements of the basic programs and the introduction of permanent safety procedures based on the principles of the system of analysis of hazardous factors and control at critical points. This is a legal confirmation of the compliance of the production of a particular farm with the minimum requirements of the program of preconditions and the guarantee of the cultivation of safe raw materials.

According to UA [1, Chapter 4], Ukraine is obliged to eliminate all sanitary and phyto sanitary barriers in trade with the European Union. Previously, it concerned the harmonization of domestic standards with European ones, then the development of technical regulations, and now the implementation of the European model of food safety was under way, as well as the implementation of sanitary and phyto sanitary measures (SPS) in accordance with European requirements. In order to accelerate the implementation of the SPS, the Cabinet of Ministers of Ukraine approved an all-embracing "Strategy" [19]. The strategy covers three components and includes about 270 events, including: 1) Public health - almost 80; 2) Animal health - about 100; 3) Phyto sanitary measures - more than 90 measures. Implementation of the measures included in the Strategy (requirements of directives, regulations, decisions, recommendations of legislative bodies of the EU) in the normative-legal field of Ukraine is carried out during 2016-2020. This field includes: laws of Ukraine, technical regulations, harmonized standards (which are given functions of technical regulations) Instructions and recommendations. The implementation of the measures will ensure the formation of a domestic normative field in the field of food law equivalent to the European, which will promote significant

progress towards the integration of the agrarian sector of Ukraine into the internal market of the Community member states.

It should be noted that in 2016, 277 enterprises in the management of the MAPP of Ukraine were entitled to export their products to the markets of the European Union [20]. Among them, 180 enterprises producing non-animal products, and 97 - food products of animal origin, of which: 7 - producers of poultry meat and products thereof, 19 - fish and fish products, 2 - eggs and egg products, 49 - honey of bees, 5 - frog legs and snails, collagen - 1, intestinal raw materials - 1. In 2016, the club of Ukrainian food exporters has replenished 51 new members, 18 of them - produce products of animal origin. In addition to Community Member States, food products are actively moving to food markets in Asia, Africa and even America. Consequently, the circle of domestic food producers, which meets the requirements of the normative documents in force in the European Union, is becoming wider.

### **Conclusions**

1. The signing of the Association Agreement with the European Union provoked new challenges and intensified the aggravated aging problems in the Ukrainian agrarian sector; At the same time, it served as a catalyst for the emergence of new opportunities, tools and mechanisms for their solution. The transition to a European model of food safety has necessitated not only the modernization of the domestic food and feed safety system and the veterinary service, but also the introduction of sanitary and phyto sanitary measures in the agrarian sector in accordance with the requirements of the EU. One of these efforts should be optimization, development and active "development" of the assigned functions and powers granted by the territorial network of departments, institutions and organizations of the State Service of Ukraine for Food Safety and Consumer Protection. Creating its own market surveillance system, equivalent to a European model of market surveillance, will allow for a significant progress towards the integration of the Ukrainian agrarian sector into the internal market of the Community.

2. One of the most problematic solutions to the agrarian sector is the requirement to guarantee the production of safe food based on the introduction of systemic safety methods. The analysis showed that the implementation of HACCP in the 1st and 2nd groups of food industry enterprises is less than half (including in Group I does not exceed 55%). Therefore, it is necessary to intensify efforts to correct a rather critical situation and the important role here should play the State Committee for Consumer Safety. Its territorial divisions should initially raise the issue of auditing in enterprises where there are few effective security systems (there is a formal implementation of HACCP and other functional systems) or they do not exist at all in order to motivate their owners to practice the situation and monitor the implementation of specific Measures according to the established schedule.

3. According to the current legislation, for the introduction of permanent operating procedures at small capacities there are more than two years. At the same time, there is no provision for HACCP implementation in farms of the initial production, but general rules on compliance with production, sanitary and sanitary-veterinary requirements, which are also applicable to primary market operators, are established. In order to assess the preparedness of production of these market operators, it is expedient for their owners to independently carry out an audit on compliance with requirements that ensure the safety of the production of food raw materials and food products. In case of non-compliance, a complex of necessary measures to eliminate inconsistencies is implemented, and the specialists of the State Committee for Proprietary Services will evaluate the preparedness of the production for the implementation of the ongoing safety procedures and their implementation.

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