

**CHANGING AND DEVELOPING TURKISH  
FOOD LAW IN WITHIN THE FRAMEWORK  
OF EUROPEAN UNION MEMBERSHIP  
PROCESS AND THE NEW TURKISH FOOD  
LAW**



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and hereby certify that it is worthy of acceptance.

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**Linda Nicolaides**



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## **LIST OF ABBREVIATIONS**

<b>EU</b>	European Union
<b>BSE</b>	Bovine Spongiform Encephalopathy
<b>EFSA</b>	European Food Safety Authority
<b>GAP</b>	Good Agricultural Practice
<b>GVP</b>	Good Veterinary Practice
<b>GMP</b>	Good Manufacturing Practice
<b>GHP</b>	Good Hygiene Practice
<b>GPP</b>	Good Production Practice
<b>GDP</b>	Good Distribution Practice
<b>GTP</b>	Good Trade Practice
<b>CEN</b>	European Committee for Standardization
<b>ISO</b>	International Organization for Standardization
<b>BRC</b>	British Retail Consortium
<b>TSE</b>	Transmissible Spongiform Encephalopathy
<b>HACCP</b>	Hazard Analysis Critical Control Points
<b>DG-SANCO</b>	The Directorate General for Health and Consumer Protection
<b>CPVO</b>	Community Plant Variation Office
<b>ECDEC</b>	European Centre for Prevention and Control of Diseases
<b>FVO</b>	Food and Veterinary Office

<b>BC</b>	Before Christ
<b>WTO</b>	World Trade Organization
<b>CAC</b>	Codex Alimentarius Commission
<b>FAO</b>	Food and Agriculture Organization
<b>FDA</b>	United States Food and Drug Administration
<b>SPS</b>	Sanitary and Phytosanitary
<b>EWRS</b>	Early Warning Response System
<b>OIE</b>	World Organization for Animal Health
<b>GMOs</b>	Genetically Modified Organisms
<b>BIPs</b>	Border Inspection Posts
<b>FMD</b>	Food and Mouth Disease
<b>PPPs</b>	Plant Production Products



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## **Dedication**

This is dedicated to my family, friends, lecturers and all university staff. Without whom this would not have been possible.



## **Declaration**

I declare that this dissertation:

### **Changing and Developing Turkish Food Law in within the Framework of European Union Membership Process and the New Turkish Food Law**

All sources of information and texts not immediately pertaining to myself have been appropriately referenced and cited.

This work has been created with the intention of obtaining my Master of Science (MSc) in Food Safety and Quality Management to the Natural Resources Institute at University of Greenwich. It is currently not up for any other award at any other educational institution.

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## Özet

Gıda güvenliği hem Avrupa Birliği'nde hem de tüm dünyada yaşanan krizlerin sonucu olarak önemi giderek artan bir konudur. Türkiye'de de Avrupa Birliği'ne uyum çerçevesinde gıda güvenliğine ilişkin çeşitli yasalar çıkartılmış, yeni uygulamalar başlatılmıştır. Avrupa Birliği ile gıda güvenliği alanında Gıda Güvenliği, Veterinerlik ve Bitki Sağlığı faslı 30 Haziran 2010 tarihinde müzakerelere açılmış, Türkiye'nin bu müzakere sürecinde faslın kapanması için yerine getirmesi gereken kapanış kriterleri belirlenmiş ve Türkiye bu alanda çalışmalarına hızla başlamıştır.

Bu çalışmada geçmişten günümüze Türk gıda yasaları incelenmiş, Avrupa Birliği gıda yasası ve Türk gıda yasası karşılaştırılmalı incelenerek müzakere sürecinde Avrupa Birliği gıda yasası gereksinimlerinin öncelikleri belirlenmiştir. Bu kapsamda öncelikle Avrupa Birliği gıda güvenliği politikasının hukuki çevresi çizilmiş, Avrupa Birliği'nin gıda güvenliği tarihi irdelenmiş ve Avrupa Birliği'ndeki gıda güvenliği ile ilgili kurum ve kuruluşlar belirtilmiştir. Çalışmada ikinci olarak Türk Gıda yasası tarihi anlatılmış ve yeni Türk gıda yasası tüm yönleriyle irdelenmiştir. Daha sonra ise gıda güvenliği alanında Türkiye & AB ilişkileri gözden geçirilmiş ve faslın müzakerelere açılış süreci incelenmiştir. Çalışmada son olarak Yeni Türk gıda yasası ve Avrupa Birliği gıda yasasının farklılıkları ortaya konularak Türk Gıda yasasının eksileri ve artıları tespit edilmiş ve önümüzdeki döneme ilişkin eylemlere yönelik önerilerde bulunulmuştur. Yukarıda belirtilen konulara yanıt bulmak için [www.europe.eu](http://www.europe.eu) sitesinden Avrupa Birliği genel gıda yasası, hijyen paketi yasaları, yeşil ve beyaz kitap indirilerek incelenmiş, aynı şekilde Türk Gıda Yasalarına ulaşmak için TC Gıda, Tarım ve Hayvancılık Bakanlığının sitesi [www.tarim.gov.tr](http://www.tarim.gov.tr) kullanılmıştır.

Sonuç olarak Türkiye'nin gıda güvenliği alanında yasalarını yenileyerek ve yeni uygulamalar başlatarak AB standartlarında üretim yapmak için belirgin bir ilerleme kaydettiği bulunmuştur. Fakat bu yapılanların yeterli olduğunu söylemek mümkün değildir. Avrupa Birliği standartlarında bir gıda yasasına ve gıda güvenliğine sahip olmak için son çıkarılan gıda yasası gözden geçirilmeli, EFSA gibi bir risk değerlendirme ünitesi oluşturulmalı, HACCP eğitimleri arttırılmalı ve tüketiciyi yanıltıcı bilgilerden korumak için tüketici eğitimleri arttırılmalıdır.

## **Abstract**

Food Safety is an important issue in today's world as a result of the food crisis in both European Union and in the world. Within the framework of EU harmonization process in Turkey, various laws are put into force and new regulations are started about food safety. In this process, Chapter 12 on Food Safety, Veterinary and Phytosanitary was opened on June 30th, 2012 for negotiations. In order to close this chapter, closing criteria was determined for Turkey and Turkey started to work on that issue.

The purpose of this study is to examine the Turkish food law from past to present and to expose the priorities of the requirements of EU food legislation on the process of negotiations by examining the Turkish food law in comparison with EU food legislation. In this context, the legal framework of EU Food Safety Policy was primarily determined, the food safety history of the EU was analysed and the organizations and institutions on food safety in the EU were declared. Then, the history of Turkish Food Law was stated and the new Turkish Food Law was deeply analysed. And then, Turkey-EU relations on food safety were reviewed and the opening process of this chapter was examined. In the final part of the study, by finding the differences between new Turkish Food Law and EU Food Law, the advantages and disadvantages of Turkish Food Law were detected and suggestions regarding the activities in next period were given. In order to find answers of afore-mentioned questions, the EU General Food Law, Hygiene Package Regulations, the green and white books were deeply analysed in the website of [www.europe.eu](http://www.europe.eu); and Turkish Food Laws were found in the website of the Ministry of Food, Agriculture and Livestock, [www.tarim.gov.tr](http://www.tarim.gov.tr).

Finally, it was stated that Turkey mad significant advances in order to make production on EU standards by amending the laws and regulations on food safety. However, it is not possible to say that these efforts are sufficient. In order to have food law and food safety in EU standards, the last food law should be revised, risk assessment units like EFSA should be set up, arrangements should be made about the deterrent effect of fines, educations about HACCP should be increased and consumer education should be made for prevention of misleading information.

## 1. INTRODUCTION

Social and economic features of consumers have begun to change together with their preferences because of the impact of the technological renewals on food production process. In early 1980s, consumers started to pay attention to health, quality, food safety, and diet and nutrition issues besides the food prices. Food safety has increasingly drawn attention of authorities, researchers and public. Food safety has been keeping its place on the agenda and recently the food quality concept has become to stand in the forefront in the European Union (EU) and the other developed countries in parallel with the evolving in nutrition and health. New food policies which can be summarized with the principle of "from farm to fork" have been adopted and put into practice in the EU, through the General Food Law (Regulation 178/2002) and the subsidiary legislation. This principle has been updated as "from fork to farm" in the research area to stress the importance of the feedback from consumers to producers. What is important and invariable in both approaches is that individual and public health are at the centre of both research and policy (Giray *et al.* 2006). General Food Law (178/2002/EC), which has "from farm to fork" approach, defines important principles on food safety such as precautionary principle, traceability, risk analysis and transparency. It also gives the primary responsibility to ensure the food safety to business operators.

Relationships between Turkey and the EU, which originally based on the 1960s, have been eristic with many ups and downs. Turkey was announced as an official candidate country at European Council meeting held in Helsinki in December 1999. After 5 years later from this Council meeting, negotiations for full membership to the EU started on 3 October 2005. Negotiations which are covering each specific policy under 35 areas have been performing. One of these chapter is "Food Safety, Veterinary and Phytosanitary" named chapter 12. This chapter reflects the integrated approach of the EU about providing a high level of food safety, animal health and welfare, and plant health in the process of from farm to fork which includes consistent production, adequate monitoring studies and effective functioning of the internal market (Anon 2007).

The purpose of this study is to examine the Turkish food law from past to present and to expose the priorities of the requirements of EU food legislation on the process of negotiations by examining the Turkish food law in comparison with EU food legislation.

## **2. FOOD SAFETY POLICY IN EUROPEAN UNION**

The subject of food safety has been gaining more and more significance in EU. The sensitivity due to food crises has become the influencing factor in this. In 1998, Bovine Spongiform Encephalopathy (BSE) or its common name mad calf disease dealt a major blow to production of animal products, in part bovine meat. The production of bovine meat decreased considerably in this period. The crises shook the consumer's confidence in institutions of food as well. Therefore, people began to interrogate the effectiveness and framework of legal regulations since the establishment of EU, the distribution of authority between EU institutions and governments, and efficiency of food control. Within this framework, the European Commission, the executive organ of EU, has been making alterations in its units of food control on one hand, and on the other, it has launched a brand new discussion over food in EU. Summarizing the problems of the field of food, The General Principles of Food Law in the European Union - Commission Green Paper (Anon 1997) determines possible discussion topics and bring them into question by offering suggestions to member countries, and it was published in 1997. The discussions resulted in White Paper and 178/2002 numbered Council Regulation. The mentioned Council Regulation constituted the new framework of EU food safety system. Within this perspective, risk analysis was acknowledged as the basis of EU food security system, and it was envisaged that food safety system would involve the whole food chain including animal feeding stuff. Furthermore, food sector was encumbered with first degree liability, and some factors regarding the application such as early warning system was healed. The European Food Safety Authority (EFSA), was established as the most effective and ultimate organization in charge of risk analysis EU, considered as one of the most outstanding factors of EU food safety policy and system.



## 2.1. General Framework

EU legislation regarding food is based on four articles of Rome Treaty Establishing the European Community:

1. 37<sup>th</sup> article under the heading Agriculture is the basis of the matter in terms of aspects of food safety regarding agriculture. This article demands that the Commission propose regulations and directives regarding Common Agricultural Policy.
2. 95<sup>th</sup> article involves clauses with regards to completing the domestic market within the framework of priority of providing ultimate environment and public health.
3. 152<sup>nd</sup> article under the heading XIII “public health” aims to assure ultimate protection of human health in all EU policies and activities. The council, as an exception to 37<sup>th</sup> article, acknowledges 152<sup>nd</sup> article as the basis with a direct intention such as protection of public health in fields of veterinary and plant health.
4. The heading XIV “protection of consumer”, in part 153<sup>rd</sup> article, aims to provide ultimate protection for consumers. Three basic principles of this policy are the protection of health and reliability, preservation of economic interests of consumers. What is more, EU will provide support for consumers to obtain information and to receive the necessary training, and to improve their rights of organizing in order to save their interests. The liabilities for the protection of consumer rights are to be taken into consideration in other EU policy and activities (Anon 1957).

In accordance with changing conditions, alterations have been made in food legislation developing in sectorial field over time, and through amendments, attempts were made to address the needs. In the end, however, the legislation became so clumsy that it could not meet the demands.

The legislation system of EC uses such means:

- ***The Regulations*** of European Parliament and Council or Commission. Those are applied to all member countries in a direct fashion and its cohesiveness takes off as soon as it is admitted. It is obligatory for all of the member countries.
- ***The Directives*** of the council. Those clarify the obligatory targets; however, they have the flexibility of interpreting on the basis of their national legal system in the fields of national application of the legislation.
- ***Decisions*** are the documentaries that bind the parties for which they are stated. Those can be governments, companies or individuals. European legislation of food might be meant in either horizontal or vertical ways.
- ***Horizontal*** - It is applicable to all food and food groups but covers specific legal aspects (e.g. hygiene, labelling, additives, and packaging).
- ***Vertical*** - It deals with a specific group of food (such as fruit juices), and it settles the standards controlling all aspects of foods (raw material, content, processing, labelling). Food safety assurance in market economy is comprised of voluntary additive means.
- ***Application models*** - International Food Standards prepared as a guide for the responsible directors of national or community level or food business: Good Agricultural Practice (GAP), Good Veterinary Practice (GVP), Good Manufacturing Practice (GMP), Good Hygiene Practice (GHP), Good Production Practice (GPP), Good Distribution Practice (GDP), and Good Trade Practice (GTP).
- ***CEN and ISO standards*** - EN ISO 22000 Food safety management system, conditions for the organizations in food chains. EN ISO 22005 traceability in food and feed stuff chains. General principles and basic conditions for system design and application. EN ISO 9001 conditions of quality management system. Those can be applied by engagement directors of food business, and are voluntary legal means confirmed by recognition organs of third parties. It may be of use for engagement directors of food business in assessment defend.
- ***Special standards*** - International Food Standards are special conditions identified by some retailers who proved their responsibility of British Retail

Consortium (BRC) Global standards products of special labels for food safety. Some global food producers may demand this or such applications from their suppliers. Special standard is a matter of consumer-supplier relationship.

### **2.1.1. The Green Paper and The White Paper**

The first step towards improving the European food legislation was taken in early days of May, 1997 when the Commission published “The Green Paper” on the general principles of food law in EU. In this document, the protection of the consumer was identified to be the first and the most significant priority.

The Green Paper has four main targets:

1. To ascertain to what extent the existing legislation meets the expectations of consumers, producers and traders.
2. To investigate to what extent food controls carried out on national and EU level ensures the durability and the credibility of foods, and to what extent it protects the consumers' interests.
3. To launch a discussion over food legislation open to public.
4. As a result of all of these, to assure that the Commission sets appropriate precautions so as to improve EU food law. (Guder 2006).

Following the crisis of BSE, the crisis of dioxin emerging in 1999 has repercussions in the Community and leads to great anxieties. The crisis first appeared in Belgium as a result of a contamination of oil including carcinogenic dioxin to feed stuff, and pervaded in the Community in a very short period of time. The failure in bringing these crises under control shook the confidence of the consumers in the reliability and quality of the products within the Community, and the capacity of industrial and public authorities to ensure this safety. For this reason, the Commission set food safety as one of its basic priorities, and published the “White Paper on Food Safety” (Anon 2000) bringing a new improved approach on 12 January 2000 in order not only to protect the consumer health at topmost level, but to reassure the consumer as well.

The aim of the White Paper, in the light of the discussions, is to complement the existing EU food legislation and to identify a range of activity fields so as to modernize it, to make it more harmonious, comprehensible and flexible, to promote the application of the legislation in a better way, to increase the transparency for consumers, and make suggestions in order to guarantee a high degree of food safety.

The principles regarding the food safety adopted by the Commission are as follows in the White Paper:

- To follow an integrated approach involving the whole food chain,
- To clearly define the roles of all the elements in food chain (feed stuff producers, farmers, food businesses, member countries, Commission, consumers)
- The traceability of feed stuff, food and their contents,
- A consistent, active and dynamic food policy,
- Risk evaluation, risk management and a risk analysis including risk communication,
- Scientific recommendation at preeminent level in terms of independency, scientific efficiency and transparency.
- In order to apply injunctive relief in risk management, the Commission, within the framework of those principles, proposes an approach which involves the whole food chain, and which can be named “farm to fork”, or with a more correct translation “from field to fork” in constituting a food system with the legislation, application and control etc. all elements to be performed in EU.

Within this perspective, according to the Commission, producers of feed stuff, farmers, and food manufacturers should shoulder the first degree of responsibility in food safety, and the competent authorities in member countries should ensure and supervise the mentioned responsibility by means of national supervision and control systems. The Commission will make the evaluation of the competent authorities. This will be done by means of supervisions and controls on national levels. Consumers should feel the

responsibility as soon as the foods arrive at kitchen. Therefore, the food safety will be provided in all phases of the chain of field to fork. Risk analysis constitutes the basis of the food safety policy. Within this perspective, risk analysis is divided into three phases: risk evaluation (scientific recommendation, knowledge analysis), risk management (regularization and control) and risk communication. The responsibilities as to those phases have been allocated in the White Paper. One other basic suggestion of the Commission which is stated in the White Paper is to establish a European Food Safety Authority as the highest authority in the field of food safety in terms of scientific and technical sense, which will act by means of the mentioned approach. In the document, the prospective European Food Safety Authority has been suggested to be in charge of providing independent scientific recommendation within all the fields of food safety, and running early warning systems as well as risk communication. Gathering information, analysing this, and enabling the communication of it bears a particular importance in identifying the potential food and feed stuff threats. In this respect, amendments should be made in supervision, early warning system, researches on food safety, scientific cooperation and analytic support, and information should be enabled to reach to consumers as soon as possible. The intended European Food Safety Authority is expected to fulfil such liabilities.

Furthermore, in the White Paper, an action plan has been put forth involving precautions in subjects, primary measures (establishment of EFSA, determining food safety procedures, building up a General Food Law, a regulation on food and official controls, regulation on feed stuff, regulation on hygiene etc.), feed stuff, zoonosis, animal welfare, animal by-products, BSE, TSE (Transmissible Spongiform Encephalopathies), hygiene, contaminants, food additives and aroma substances, substances contacting food, new foods/ genetically modified organisms, irradiation, dietetic foods/enriched foods, labelling, pesticides, nourishment, seeds, supporting measures, third country policy/international relations (Anon 2000).

### **2.1.2. General Food Law Regulation**

In the law referred to as General Food Law, a general framework for the community and national food legislation. The law is implemented at all levels of the production, processing and distribution of food and feed stuff, yet not implemented on primary production for the purpose of personal consumption, domestic production, processing and storage for the purpose of private consumption. After a short period of time, following general food law's coming into force, a series of Council directives were unified, harmonized, and simplified under Hygiene Package in 2004, which were about the production and marketing of animal origin foods, and hygiene of food substances existing before. Thanks to these regulations, a single and a transparent hygiene policy which was applicable "from farm to fork" began to be implemented on all kinds of food and food businesses, and an effective management of food safety is aimed.

Within the scope of risk analysis, food law is based on a risk analysis constructed on scientific proof substantially. Risk analysis is composed of three related components: risk assessment, risk management, and risk communication. Risk assessment has to be carried out with an independent, objective, and transparent understanding based on the truest available scientific finding. Risk management is the process of opting for the required activities in order to measure, the policy alternatives, and to avoid, decrease and remove the risk by taking the results of risk assessment into consideration. At the stage of risk management, policy makers should take a wide array of other factors into account in addition to risk assessment (controllability of the risk, the most effective risk-reducing activities for the problematic part of food supply chain, practical configurations, socio-economic effects and environmental effects).

The Precautionary Principle is a term first coined in the General Food Law. Within the scope of this principle, Member States and the Commission can take temporary risk measures in cases where the evaluation results show health-threatening effects, but where the data and the scientific information on the risk has not become definite or

complete yet. Therefore, policy makers and risk managers may take action so as to protect health until certain scientific conclusions are achieved. Nonetheless, what is significant in this principle is to protect the health on the demanded level by the Union; that's why the precautions should be in direct proportion with the risk, and no stricter precautions impeding the trade than the required level should be implemented.

Within the scope of transparency principle, due to the fact that food safety and the protection of consumer interests by and large concern the public, non-governmental organizations, employee association, international trade partners and commercial organizations, all the sharers should be included during the preparation, evaluation and revision of the food law, and a transparent public consultation should be carried out directly or via representation structures. If feed stuff or food is considered to be the source of the risk, authorities should inform the society on the risk to human health and animal welfare.

As to the responsibilities of the operators, the operators of food and feed stuff ensure that food and feed stuff conform to the requirements of the food law in every stage of production, processing and distribution. The primary responsibility belongs to businesses. Member countries check to see by means of official controls whether the requirements of law are fulfilled, and they set the rules regarding the penalties to be implemented and the precautions to be taken in case of a violation of the law. The main liabilities of the operators are as follows:

- Safety (Operators cannot put unsafe food and feed stuff on the market)
- Responsibility (Operators are responsible for the safety of food and feed stuff that they produce, transport, store and sell)
- Traceability (Operators should be able to determine their suppliers and buyers)
- Transparency (Operators should forthwith inform the competent authorities if there is any suspicion that food and feed stuff are not safe)

- Emergency (Operators pull their goods from the market if there is any suspicion that food and feed stuff are not safe)
- Prevention (Operators should identify the critical points in their processes, and they should make analysis on a regular basis as well as make their controls at those points)
- Cooperation (Operators should be in cooperation with the competent authorities to decrease the risk in under-taking works).

If an operator considers that an imported, produced, processed, manufactured or distributed food or feed stuff is harmful to human health or animal welfare, s/he should immediately step back so as to pull the product from the market, and to inform the competent authorities. In cases where the product has already reached to customer, the operator should inform the consumer urgently, and call those products back (Anon 2005).

Being aware of the sources of foods and origins of feed stuff and food ingredients is of primary significance with regards to the protection of consumers in particular cases where the product is understood to be defective. Traceability eases the retraction of food from the market and enables true information to reach to consumers about food under suspicion. Therefore, the traceability of substances added to feed stuff or food, and of food, feed stuff, and animals producing food is ensured at every stage of the production, processing and distribution of the product. Operators should be able to identify the businesses, with which they supply product, or food, feed stuff, animal producing food and substances added to food and feed stuff. For this, business operators have to own the required systems and procedures. Importers are subject to the same processes, as they will be demanded that they know by whom the product was imported in its country of origin. Unless a provision necessitating a more advanced level of traceability is required, the necessitation of traceability is limited in enabling the businesses at least to identify the closest supplier and the buyer of the product excluding the retailers and final consumers (one step back – one step forward).



### **2.1.3. Hygiene Package**

In “the White Paper on Food Safety” (Anon 2000) published in January 2000, the Commission accentuated that a coordinated and an integrated approach to the subject of hygiene is of vital importance, and they expressed the revision necessity in legislations of veterinary and food hygiene.

This revision includes the following suggestions:

- food hygiene
- special hygiene rules for animal products
- official controls of animal products for human consumption
- the production of animal products, putting them on market and animal welfare rules regulating their import (Directive 2002/99/EC) and
- official controls on food and feed stuff.

As a result of the revision studies within this framework, new hygiene rules were admitted by the European Parliament and Council in April 2004. This “New Hygiene Package”, which is a revision package, consists of

- Regulation 852/2004/EC on the hygiene of the foodstuffs
- Regulation 853/2004/EC laying down specific hygiene rules for on the hygiene of foodstuffs
- Regulation 854/2004/EC laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption
- Regulation 882/2004/EC on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules

Furthermore, this was decided to be applied starting from the date 01 January 2006.

The New Hygiene Rules are based on such main principles as stated below:

- ✓ The primary responsibility in food safety belongs to business managers of food,
- ✓ The food safety should be ensured starting from the first and primary production of food chain,
- ✓ The procedures should be based on HACCP (Hazard Analysis Critical Control Point) principles,
- ✓ Main hygiene conditions and hygiene conditions specifically determined for particular foods should be in practice,
- ✓ The registration and confirmation of some particular food businesses are required.
- ✓ In order to help managers of food businesses comply with the new rules in food chain, HACCP principles should be implemented as a means, and an implementation guide for hygiene should be developed,
- ✓ Flexibility should be provided for those who produce foods with traditional conventions in distant areas (such as high mountains, distant islands) (Anon 2006)

Hygiene Regulations should be handled under the roof of Regulation of General Food Law in practice, which were prepared by taking as a basis the Regulation of European Parliament and Council 28 January 2002 dated and 178/2002 no., which sets the procedures regarding the food safety, and which established the European Food Safety Authority setting the principles and requirements of Food Law that constitutes a basis for new Community Legislation regarding food safety.

## **2.2. Institutional Organization Regarding Food Safety in European Union**

### **2.2.1. The Directorate General for Health and Consumer Protection (DG-SANCO)**

The Directorate General for Health and Consumer Protection (DG-SANCO) carry out the duty of protecting and improving the consumer interests and human health, ensuring the food safety, protecting and improving the animal and plant welfare. While the institution carries out such duties, it also aims to protect the competitive environment, to maintain the environment, and to make contribution to the good affairs of EU with international partners. The institution attempts to gain trust of the public with their proficiency in risk management and their transparency.

DG-SANCO proposes suggestions when a problem is detected in the fields of animal health and welfare, and the safety of food chain in EU. In the event that competent authorities on regional or national level encounter a problem in such fields, support should be provided for those positions. In addition to using the binding legal materials which are required in solution of the problem, it attempts to establish effective results via other policy means as well.

EU Agencies working as part of the Directorate General consist of the European Food Safety Authority (EFSA, Parma/Italy), Community Plant Variation Office (CPVO, Angers/France) and European Centre for Prevention and Control of Diseases (ECDC, Stockholm/Sweden).

### **2.2.2. European Food Safety Authority (EFSA)**

European Food Safety Authority EFSA was established on the basis of Regulation of Council and European Parliament regarding the Basic Principles of Food Law no 178/2002/AT and 28 January 2002 dated, and it is the most authorized reference centre in EU. The Authority, according to the Regulation No. 178/2002, is in charge of risk assessment and risk communication of risk analysis within the scope of food safety. Within this framework, it meets the demands of information and consultation of the Community about the food chain including feed stuff, plant and animal health. In doing this, it cooperates with competent authorities of member countries and other regions of the world. EFSA follows those basic principles: independency, scientific efficiency, and transparency.

EFSA carries out such duties in its field of authorization:

- Providing the truest scientific view to member countries and Community institutions upon requests by Commission, European Parliament or Member Countries, or by its own initiative,
- Encouraging and coordinating the development of the methods of a sample risk evaluation
- Providing scientific and technical support,
- Carrying out scientific studies enabling it to fulfil its duty,
- Researching, gathering, collecting, analysing, and summarizing scientific and technical data regarding the fields of food safety (exposure of the individuals to risks arising from the consumption of foods, biological risks, contaminants and remnants)
- Taking action for identification and determining the risks that may emerge,
- Setting up a web system comprised of organizations operating in food safety field, and being in charge of this,
- Upon request by the Commission, presenting scientific and technical support in implemented crisis management policies,

- Upon request by the Commission, providing scientific and technical support in order to develop the cooperation among the Commission, countries that applied for membership, international organizations and third countries,
- Enabling the public and the relevant parties to acquire rapid, reliable, objective and comprehensive information.
- Expressing the results and reviews obtained in its own subjects freely.

As a risk evaluation unit, EFSA gives scientific recommendations. The support it provides to the European Commission, Parliament, and member countries for taking effective risk management decisions on time in the Community is of great significance. EFSA carries out such activities under various committees, panels, and directorates. Scientific committee and panels are composed of specialists of risk assessment.

### **2.2.3. Food and Veterinary Office (FVO)**

Food and Veterinary Office (FVO) takes on task of implementing the community legislation effectively in fields of food safety, animal health and welfare, and plant health. To develop effective control systems in fields of food safety and quality, and plant and animal health, to inspect the compliance of third countries exporting EU with EU food safety and quality, and plant and animal health acquis, to make contributions to the development of EU policy regarding the mentioned fields and to inform the relevant sides on the evaluations that it has made are some of the duties of the office.

FVO holds inspections in order to enable the effectiveness of the control systems, and to evaluate the compliance with EU standards in third countries regarding the export to EU and within the Community. FVO inspections can be held for various purposes. However, the main target of the inspection is assessed in four fields: food safety, animal health, animal welfare, and plant health.

Food and Veterinary Office has been carrying out its duties so as to ensure that the member countries have effective control systems, and to assess the compliance with EU standards in third countries exporting to EU or in EU, and it maintains its inspection duties in member countries and third countries exporting to EU. The office forms an inspection program annually by determining the countries to be inspected and the fields of priority.

### **3. FOOD POLICY IN TURKEY**

#### **3.1. Turkish Food Law History**

Table 1. General Food Laws of Turkey Year by Year

Kanunname-I Ihtisabi Bursa (1502)
Law No. 1580 on Municipality (1930)
Public Health Law (1930)
Decree No. 560 on the Production, Consumption and Inspection of Food (1995)
Law No. 5179 on The Production Consumption and Inspection of Food (2004)
Law No. 5996 on Veterinary Services, Phytosanitary, Food and Feed (2010)

##### **3.1.1. Kanunname-I Ihtisabi Bursa**

All of the Turkish governments in Anatolia gave examples of civilization in all areas, which are considered important even today. The subject of standard is also one of them. In the Ottoman Empire standards of products were audited by institutions such as Akhism institution. This audit process, which was held by both religious dimension and objective aspects of quality, is brought to the striking point of intersection in modern times. Nearly five centuries ago, standard rules were laid and applied according to the local characteristics of many of the regions and kind of production in the Ottoman territory.

Although the history of metrology (the science of measurement and standards) is based on the times Before Christ (BC), a systematic study in this field has been able to reveal in the 18<sup>th</sup> century in Europe. The intervention of the church to science and the inquisition contributed to this delay. The greatest progress in the measurement and standardization was seen in the 15<sup>th</sup> century in the Ottoman Empire. Due to the lack of information in the Turkish history, studies on this subject have been considered to take off in Europe in the 18<sup>th</sup> century. Although there were not any standards related to goods produced in the first period of Ottoman Empire, some of the standards and measures were taken to protect consumers in the 15<sup>th</sup> century and onwards. In addition, manufacturing sector produced on the basis of the determined standards. The most obvious example of this is “Municipality Laws”, which was first issued during the reign of Fatih and specified the general framework in the period of Sultan Bayezid the Second. With this Municipality Laws, the concept of standardization was put down on paper.

“Kanunname-i Ihtisab-ı Bursa”, which was the oldest written standard of the world, was prepared as edict by Sultan Bayezid the Second. In this document of standards of quality, size and packaging were determined, and monetary and penal provisions were also given. A system, which is a similar to today’s standardization system, was established, various substances such as salt, bread, vegetables, meat, eggs, milk, yoghurt, cheese, textiles, jewellery, kitchen goods, leather and leather products and footwear were standardized separately by specifying the properties. The weight of bread sold in the market, the shape of cooking, maturity description of fruit and vegetable, prices and transportation fees were also determined via those municipality laws. This Municipality Law was the world’s most perfect and most extensive municipal law, but the world’s first law which protected the rights of the consumers, the first food safety laws, and the first environmental regulations as well. Ideas of experts, people and reliable persons were taken during the creation of this law and it was written by Mevlana Yaraluca Muhyiddin, who knew very well both the traditions of the Ottoman and the law. The original text is in the Library of Revan of the Topkapi Museum.

Kanunname-i Ihtisab-ı Bursa (Bursa Municipality Law) is known as the world's first standard law (Tayar 2010).

### **3.1.2. Law No. 1580 on Municipality**

The food legislation is named as the whole laws, regulations and directives which is for protecting the consumers and generally determines the places, stored and markets of foodstuffs. The first law about food safety was No. 1580 Municipality Law, which was enacted in 1930 in Turkey. According to the 15<sup>th</sup> article of this law, audit of food production, storage and sales outlets in within the municipality limits fell within the scope of the duties of municipality. The 2<sup>nd</sup>, 3<sup>rd</sup>, 28<sup>th</sup>, 58<sup>th</sup> and 61<sup>th</sup> subclauses of this article identified the scope of this task. The structure of municipal police and duties of municipality were defined in the 99<sup>th</sup>, 104<sup>th</sup> and 105<sup>th</sup> articles of this law.

### **3.1.3. Public Health Law**

The first comprehensive legislation about food safety was “Public Health Law in Turkey” Law No. 1593 which was issued in 1930 after a short period of time of Municipality Law. “Public Health Law in Turkey” Law No. 1593, which was the main legislation on food and published in 1930, kept food products under control in terms of health. This law was a general health law not a “food law”. The 181<sup>st</sup> - 199<sup>th</sup> articles of this law contained assessments, controls and bans about food. Outside of the municipal boundaries, the responsibility of food belonged to the Ministry of Health and Welfare; however, within the municipal boundaries, the responsibility of food belonged to municipalities. The production, storage and sale of food products which disrupted the consumers health was prohibited in the 184th article of the law. Permissions of food additives and food dyes were given by the Ministry of Health and Welfare according to the 188th article of the law. Other articles were about controls and penalties.



#### **3.1.4. Food Statute and Alimentary Products Law**

After Public Health Law, Food Statute was published in 1942 and then Food Additives Regulation was published in 1952 as a significant step. In Food Additives Regulation all foodstuffs and the properties of items which concerns public health were described in detail. And again in 1952, Alimentary Products Law came into force under the Public Health Law in Turkey (Giray and Soysal 2007).

#### **3.1.5. Decree No 181 on the Organization and Duties of Ministry of Health**

Decree No. 181 about The Organization and Duties of Ministry of Health was also published in 1983. With this law Ministry of Health had the basic responsibility for the control food and health services, cooperation with the Ministry of Agriculture and Rural Affairs and local administrations.

#### **3.1.6. Decree No 441 on the Organization and Duties of Ministry of Agriculture and Rural Affairs**

Decree No. 441 about the Organization and Duties of Ministry of Agriculture and Rural Affairs was published and came into force in 1991. “Providing control system for production, processing, preservation, and marketing of food and other agricultural and livestock products and helping farms in these matters” was given to Ministry of Agriculture and Rural Affairs as a main responsibility.

### **3.1.7. Decree No 560 on the Production, Consumption and Inspection of Food And Turkish Food Codex**

Food legislation has been constantly changing due to developments of the food industry. In addition, food legislation issued by the World Trade Organization (WTO), European Union (EU), Codex Alimentarius Commission (CAC), Food and Agriculture Organization (FAO) and the United States Food and Drug Administration (FDA) is closely monitored and national food legislation is updated by taking into consideration the conditions of the country (Guder 2006). In this context, Decree No. 560 about the Production, Consumption and Inspection of Food, which was published on 28th June 1995, was the first law that brought structural and fundamental modifications to food services in the republican period. Prevention of disorganization and chaos in the food services and fulfilling the obligations of WTO Sanitary and Phytosanitary (SPS) Agreement were aimed in this decree. In addition, this decree was the important beginning for harmonizing our food legislation with EU legislation as a result of signing the Customs Union Agreement with EU.

Indeed, in accordance with the relevant provisions of this decree, the Turkish Food Codex, Regulation on the Food Production Consumption and Inspection, Regulation on the Establishment and Operation of Private Food Control Laboratories, Regulation on the Establishment Opening Operation and Inspection Procedures and Principles of Red Meat and Meat Products Production Facilities, Regulation on the Establishment Opening Operation and Inspection Procedures and Principles of Poultry Meat and Products Production Facilities, Regulation on the Harvesting Packaging Marketing and Inspection of Potable Waters were prepared and endorsed in cooperation with the responsible ministries (Cig 2008). Decree No. 560, which is a framework law, was designed to be applied at all stages of the food chain from production to consumption. According to Decree No. 560 food-producing businesses must apply to the Ministry of Health for obtaining a work permit as the minimum technical and hygienic conditions before moving into production and also must enrol to register of food businesses which is organized by the Ministry of Health. Related controls were carried out by the Ministry of Health. Food-producing businesses have to sign up to register of food

businesses for taking registration number and also have to register the substances contained in the composition of foodstuffs which they manufacture to the Ministry of Agriculture and Rural Affairs. Related controls were carried out by the Ministry of Agriculture. Control of the food outlets was making by the Ministry of Health in collaboration with the municipalities within the municipal boundaries and the neighbouring areas, but otherwise the Ministry of Health made the controls of the food outlets.

It became compulsory to run the people who have been trained in food science as an administrator in charge of the workplace with this law. This law has allowed creating the Turkish Food Codex instead of Food Additives Regulation which was published in 1930 and has been enforcing for 67 years (Adiguzel 2008). Annunciations about determination of the quality criteria and specifications for food, food hygiene, food additives substances, contaminants, labelling, materials of packaging, storage and distribution properties were established within the framework of Turkish Food Codex Regulation which was published in the Official Gazette dated 16 November 1997 and numbered 23172. Food control and inspection system improvement and also improving existing controls of food industry for ensuring proper feeding of people and protect the public health with the interests of producers and consumers were promoted with this decree. Decree forbids the people who manufacture, process and trade of food to act in contravention of the Turkish Food Codex (Guder 2006).

### **3.1.8. Law No 5179 on the Adoption of Changes in Statutory Decree Numbered 560 on the Production Consumption and Inspection of Food**

When Decree No. 560 came into force, it could not fully change the complexity of authority but decrease the number of authorities. After nearly 10 years staying into force of this Decree, due to failing to find the solution to some problems of this Decree, the new law was prepared taking into account EU legislation especially 178/2002/EC Council Regulation and The Law No 5179 on the Adoption of Changes in Statutory Decree Numbered 560 on the Production Consumption and Inspection of Food was established in the Official Gazette No. 25483 dated 05.06.2004 (Cig 2008). The main

factors leading to modification of the aforementioned Decree can be listed as preventing the complexity of registration and authorization procedures stipulated by Decree between the Ministries, eliminating the financial and bureaucratic obstacles of the food establishments, needs of defining the fundamental concepts about food to harmonize with EU and request of involving all relevant parties including consumers and experts to preparation and implementation of food legislation (Guder 2006).

The Ministry of Agriculture and Rural Affairs completely became responsible authority for the inspection of food except water for ensuring the effectiveness of food inspection applications and preventing the chaos of authorization with the Law No. 5179.

This law, which makes the Ministry of Agriculture and Rural Affairs to competent authority for the registration, regulation, inspection and control services of production, processing, export and import stages of food, is consisted of 41 articles and 6 temporary articles.

The aims of the Law No 5179 are ensuring of food safety, production, processing, preservation, storage and marketing of all kinds of food and food materials in a technical and hygienic way and providing nutrition to the public as required, in order to protect public health and the benefits of producers and consumers, to determine the features related with the security of all kinds of raw, semi-finished and finished food products, auxiliary products used in food processing and materials and substances contacting with food and to determine the minimum technical and hygienic conditions of work places in which food products are produced and sell and to determine procedures and principles regarding food control and services related with food products.

Law No 5179 regulates the following topics;

- Production permit, registration of food, employment and responsibilities and authorities about establishment of laboratory
- The Food Codex, National Food Codex Commission, Risk Analysis, precautionary measures, the Scientific Committees and the National Food Council
- Notifications, Emergency situations, Crisis Management, traceability and business responsibility
- Provisions on the Protection of Health
- Provisions on the Food Trade
- Market Surveillance, Control, Inspection, Certification and Right of Objection
- Criminal Rules, Collection of Fines and Appeals

Production permit and registration of food were determined and the establishment and operation of the public and private laboratories for performing hygiene and quality analyses in terms of food safety of foodstuffs and food contact materials were needed to get permission from the Ministry of Agriculture with the fourth article of this law. Again, the sixth article of the law is related to employment and makes compulsory the employment of administrator in charge of the food and food contact materials producing establishments according to the nature of production.

Preparation of the Turkish Food Codex, which contains minimum hygiene and quality criteria of food stuffs, pesticide and veterinary drug residues, food additives, hazardous substances contaminated with food, principles of sampling, packaging, labelling, transportation and storage, and methods of analysis, by the National Food Codex Commission and its publication by the Ministry is the basis of the seventh article of the law.

Establishing National Food Codex Commission and the formation and operation of the Commission and incumbency of the committee members during the preparation of Turkish Food Codex is explained in the eight article of the law.

In the ninth article of the law, risk analysis, which is based on scientific evidence, independent, transparent and impartial for ensuring protection of human health and food safety, is the basis on the food legislation applications.

Temporary risk management measures can be taken until to reach a comprehensive risk assessment opportunity and to get high level scientific data in the special cases such as determining the possibility of the hazardous effect on human health and continuing the scientific uncertainty according to the tenth article of the law. According to the eleventh article of the law which refers the same subject, scientific committees will be established for investigate, collect, organize, analyse, interpret, summarize and to create a vision the scientific and technical data for risk assessment.

According to the twelfth article of the law, the Ministry was authorized to create National Food Council for making food-related regulations and obtaining views and proposals in making practices and qualifications of members are specified according to representing organizations and also opportunity of establishing Association of Food Bank was brought.

Creation of systems to ensure the food safety conditions for the protection of human health and the notification of the risks which arise directly or indirectly because of the food, and regarding the case of food-borne diseases information sharing the information with the relevant departments and taking appropriate measures by the Ministry is the necessity according to the thirteenth article of the law and also according to the fourteenth article of the law in the case of determining the possibility of the harmful to human health of the produced or imported foodstuff, the necessary measures should be taken in relation to the presentation to market, usage and imports of the foodstuff.

A crisis unit should be established by the Ministry of Health in accordance with all relevant institutions and organizations to provide scientific and technical assistance when detection of directly or indirectly risk to human health about food and the existing provisions of this risk cannot be eliminated, corrected or adequately decreased and conducted with emergency measures according to the fifteenth article of the law.

According to the sixteenth article of the law, the traceability system to determine the any substance which is expected in plant, animal or foodstuff that is obtained food should be established in all the stages related to production, processing and distribution of food and accordingly it will be mandatory to know where they buy the plant, animal or substances that will be mixed into foodstuff to food business operators.

Recalling the product from the market and contributing the traceability of food with the relevant units in the case of the food that food operators import, produce, handle, distribute and manufacture does not comply with the requirements of food safety is compulsory according to the seventeenth article of the law.

For the protection of human health, businesses, which produce and/or sells food and food contact materials, have to meet the minimum technical, hygienic and safety conditions, cannot manufacture food products without complying with food codex and cannot subject to exchange, cannot produce the food that harms to human health, cannot put any hazardous substance as an ingredient and cannot put such a residue is ruled in the eighteenth article of the law.

The twenty second article which is related to protection of consumer rights, makes compulsory that all real and legal persons which produce, import and sell food and food contact materials and substances must inform consumers.

Twenty-third article of the Law, which is related to market surveillance and supervision, to market surveillance and supervision of businesses that produce and sell food and food contact materials and substances and collective consumption places should be done in collaboration with relevant institutions and organizations.

Law No 5179 explains the various concepts and systems which are in EU acquis related to food safety and provides application for them but leaves determination of principles and procedures about the implementation to the regulations which will be issued by the Ministry of Agriculture and Rural Affairs. Risk analysis is one of these concepts and systems. In the law, risk analysis and its sub-elements risk assessment, risk management and risk communication are defined and risk analysis is a basis for in taking the measures related to food safety. In addition, the need to ensure food safety for all stages of the food chain from production to consumption is included in the Turkish legislation. Responsibility of Ensuring food safety is given to food businesses and the local authorities, municipalities, relevant departments of the Ministry of Health are appointed to make inspections for food safety within the framework of principles and procedures specified by the Ministry. Adequate precautionary measures, which are in EU acquis, put into operation in emergency situations that risk assessment cannot give accurate



results are given in the law. How to implement precautionary measures will be determined by regulations which will be published by the Ministry like any other matters. According to the law, experts who have scientific competence will be appointed to perform the risk assessment is another issue. The National Food Council and the National Food Codex Commission will be established, in order to increase participation in taking measures relating to food safety with this law. A "notification system", which is the equivalent to the Early Warning Response System (EWRS) and traceability in EU, is expected to be established by the Ministry and food business operators should provide the necessary traceability. Lastly, criminal provisions for businesses that have not appropriate permissions for registration according to the Turkish Food Codex are revealed by the law (Guder 2006).

EU Commission is reported their views on the shortcomings of the law after 6 months of the publication of the Food Law No. 5179 with a notification. The following criticisms were expressed in relation to the notification:

- Food producers are primarily responsible for production of healthy and safe food and its placing on the market in favourable conditions. The manufacturer's responsibility and penal sanctions in disobeying situations are not clearly expressed in the law.
- The exported products but returned for some reasons such as aflatoxin is the meaning used in the country are inferred as they can be used in the country according to the related article of the Food Law.
- Controls are mentioned in the Law but the authority which is responsible for controls is not specified certainly.

Indeed, the problems which are related to the last article were experienced. In 2004, after transferring its rights to the Ministry of Agriculture and Rural Affairs of the Ministry of Health, although the Ministry of Agriculture and Rural Affairs has all the authority and responsibility in the field of food except waters to ensure the effectiveness of food control applications and to prevent from the chaos of authority, with the Municipal Law, 1.5 months from onset of this Law No 5179, giving the food control authority to municipalities was created the culmination of problems.

Some concepts related to food safety in the EU acquis has been transferred to legislation of the country with this Law No 5179 but gaps has been experienced number of issues about implementation. Establishment of regulations which is stipulated to the implementation of the legislation was late (Adiguzel 2008).

As can be seen from the evolution of Turkish food law history which is from Kanunname-i Ihtisab-i Bursa to Law No 5179 on the Adoption of Changes in Statutory Decree Numbered 560 on the Production Consumption and Inspection of Food, we can say that Turkey made an effort for approximation to EU legislation. But it is not possible to say that what have been done is enough for harmonization and approximation. In order to reach the EU level, it is required to make progress within a framework of a program which covers all the elements of food security. The scopes of this study is to find out deficits of the new Turkish Food Law and to examine the Turkish food law from past to present and to expose the priorities of the requirements of EU food legislation on the process of negotiations by examining the Turkish food law in comparison with EU food legislation.

## **4. FINDINGS AND DISCUSSION**

### **4.1. Turkey & EU Relations**

#### **4.1.1. Food Safety, Veterinary and Phytosanitary Chapter in the Negotiations with EU**

Negotiations which are covering each specific policy under 35 area have been performing. One of these chapter is “Food Safety, Veterinary and Phytosanitary” named chapter 12. This chapter reflects the integrated approach of EU about providing a high level of food safety, animal health and welfare, and plant health in the process of from farm to fork which includes consistent production, adequate monitoring studies and effective functioning of the internal market (Anon 2007).

The screening process which is initiated by the decision of the intergovernmental conference is the first stage of the accession negotiations. In the screening process, which is a formal process, Commission explains the acquis to the Turkish authorities assesses the status of preparation of Turkey for opening negotiations and examine the acquis for acquiring preliminary data about the issues relating to the negotiations. At the end of the screening process if harmonization level of the EU acquis is deemed adequate by the EU Commission, the chapter can be opened to the negotiations. Currently 13 of 35 chapters have been opened to the negotiations (Anon 2010a).

#### 4.1.1.1. Opening Process of the Chapter

Food safety, Veterinary and Phytosanitary Policy chapter was opened on 30 June 2010 which was the last day of the Presidency of the Council of the European Union of Spain. With opening this chapter Turkey open the 13<sup>th</sup> chapter since 2005. Minister of Foreign Affairs Ahmet Davutoglu, Minister of State and Chief Negotiator Egemen Bagis, Minister of Agriculture Mehdi Eker and a delegation consisting of senior bureaucrats joined the Intergovernmental Conference in Brussels related the opening of the chapter on behalf of Turkey. Foreign Minister of Spain Miguel Angel Moratinos was the head of EU delegation in the Intergovernmental Conference.

In 2009 Turkey Progress Report of the European Commission, limited progress in transposition of EU Legislation about food safety and practicing related *acquis* was noted. It was harshly criticized that the Framework Law about food, veterinary, feed, hygiene and official controls, which was one of the opening criteria of the related chapter, was not adopted. In this context, the Framework Law was expected to pass in Grand National Assembly of Turkey in April. But because of the busy agenda of the Assembly and conversations about a month-long constitutional amendment package, "Veterinary Services, Phytosanitary, Food and Feed Law" was approved on 13 June 2010 in the Assembly. Besides enacting the Framework Law, Turkey had the opportunity to meet five other opening criteria related to chapter in this process. The first draft of the strategy related to second opening criteria which was *"presenting a detailed strategy to the European Commission on food safety, veterinary and phytosanitary policy on the implementation of the EU acquis transposed into national legislation"* was conveyed to the Commission in December 2009 by Turkey. "Regulation on Identification, Registration and Monitoring of Sheep and Goat" was published in the Official Gazette on 10.02.2009 and entered into force for the third opening criteria *"to begin implementing identification and registration system of sheep and goat, manifesting measures to strengthening the system for identification and monitoring bovine animals"* and according to this regulation tagging of sheep and goats

was started on 01.01.2010. Strategy for next periods about small cattle was presented to the Commission in May 2010. Also action plan about the identification of cattle which was the second step of the criteria has been presented. A detailed evaluation report about the movement and the direction of animals in Turkey in order to meet the fourth opening criteria *“presenting a detailed assessment about recording of movements of live animals and controlling of butcher to the European Commission”* has been presented to the Commission. The fifth opening criteria *“identification as free zone of Thrace region from foot and mouth disease (FMD) by the World Organisation for Animal Health (OIE)”* was one of the hardest criteria with the first opening criteria for Turkey. However, the relevant file was presented to the OIE in 2009 as a result of the vaccination campaign of Foot and Mouth Disease Control Project in Turkey which was being held since 2008 and an outbreak of FMD has not appeared in the Thrace region. Shortly before the opening of the chapter, the General Assembly of OIE approved vaccinated purity of Thrace region from FMD. A classification which was prepared by the Ministry of Agriculture and Rural Affairs was presented to the Commission for the sixth and final opening criteria *“presenting the classification of all food establishments in accordance with the EU acquis taking into consideration National Programme for restructuring of food enterprises to the European Commission”* and the Commission declared that classification meets the opening criteria.

After meeting opening criteria of Turkey on 15 June 2010, in order to fulfil the technical requirements and acceptance of all EU member states about meeting opening criteria and approving process of the chapter for the opening of the 13<sup>th</sup> chapter Food safety, veterinary and phytosanitary policy in EU-Turkey negotiations was began.

In this process, Turkey completed the technical process, which was expected to be completed approximately in two months, in two weeks with the support of the President of Council Spain and the European Commission. The Negotiation Position Document was conveyed to Presidency of Spain on 23 June 2010 by Turkey after meeting the six opening criteria. Meeting the opening criteria of Turkey about Food Safety, Veterinary

and Phytosanitary Policy chapter was announced by the European Commission. Right after, 13<sup>th</sup> chapter was opened in the accession negotiations with the EU of Turkey on 30 June in the intergovernmental conference. (Bozcaga and Cihangir 2010).

In the screening meetings which were held on 9-15 March 2006 and on 24-28 April 2006 Food safety, Veterinary and Phytosanitary chapter was divided into six sub-headings. According to this division general provisions for food, veterinary, market supply of food and feed, food safety rules, special rules about feed and phytosanitary has been listed as sub-headings. The most comprehensive section of sub-headings was the veterinary department in the field of food safety because of especially the BSE crises of EU in the 90s.

Negotiating Position Document No. CONF – TR 2/10 related to chapter was submitted on 23 June 2010 by Turkey. Reservations which have come into prominence in the screening meetings of Turkey about implementation of certain provisions of Council Directive 64/432/EEC, Council Regulation (EC) No 1099/2009, Council Regulation (EC) No 852/2004 and Council Regulation (EC) No 853/2004 were highlighted in this document. As a result of these reservations;

- 1) Special rules about animal by-products: Turkey indicated that adaption of the structural requirements in the Council Regulation (EC) No 852/2004 and 853/2004 is not possible for certain enterprises in meat, dairy products and fishery sector until the date of membership. In this regard, a transitional period was requested after creation of national plan for the improvement of relevant facilities. During this transitional period, Turkey have pledged that products which are produced in related facilities will be marketed only in Turkish markets and the third countries' markets in accordance with the provisions of the 12<sup>th</sup> article of the Council Regulation (EC) No 178/2002.

- 2) Trade of the Live animals, ova, semen and embryos within the Union: The derogation on the implementation of provisions about animal health problems affecting trade in bovine animals within the Union in the 11th article of the Council Directive 64/432/EEC was requested by Turkey. This derogation was requested related to the temporary animal markets which are established during the Feast of Sacrifice.
- 3) About animal welfare: The derogation on implementation of the 4th clause of the 4th article of the Council Directive (EC) 1099/2009 about the protection of animals during killing of animals was demanded by Turkey.
- 4) Special rules about animal by-products: The derogation on meeting requirements as stated in Council Regulation (EC) No 853/2004 in temporary slaughterhouses which are established during the Feast of Sacrifice or initiation for adaptation measures to ensure the hygiene requirements in temporary slaughterhouses were demanded by Turkey.

To provide purity of the FMD in 2025 all of Anatolia after vaccination was implied in the field of veterinary policy of the Negotiating Position Document by Turkey Apart from the three derogations demand related to a transition period for food businesses which are incompatible with EU hygiene standards and temporary animal markets established during the Feast of Sacrifice and slaughtering animals and hygiene standards during the Feast of Sacrifice.

After presenting the Negotiating Position Document of Turkey, the EU and Turkey created the Joint Position Paper related to 12<sup>th</sup> chapter. A total of six closing criteria were decided for closing the chapter for temporarily as noted in the Joint Position Paper and in the Press Release related to 9<sup>th</sup> Intergovernmental Conference (Anon 2010b). The closing criteria are listed as follows:

1. Implementation of fully operational systems which are in line with the EU acquis for the identification and registration of animals and meeting the related opening criteria (3<sup>rd</sup> opening criteria).
2. The submission of an approved national program for improving animal products facilities including animal by-products facilities to include a concrete plan about auditing by the Turkish authorities of the process related with improving the facilities. National program about dairy sector must include a strategy for the use of raw milk that is not compatible. Turkey must show sufficient progress on the implementation of the program. Furthermore Turkey must provide sufficient staff and financial resources for the controls of the process of improving facilities within the scope of the national program.
3. Fulfilment of obligations about the notification of animal diseases and to provide sufficient cooperation with other EU countries. As specified in EU legislation, required control and audit measures about animal diseases, which are had to be notified to EU, must be implemented and emergency plans for major epizootic diseases must be created. Implementation of the previously prepared plan for the elimination of FMD and the full implementation of EU legislation in relation to disease.
4. Adoption and implementation of an effective system for the control of the TSE, the full feed ban, control of specified risk materials and TSE tests.
5. Raising an awareness of sector for transposition of EU animal welfare legislation and effective implementation with the membership.
6. Making the necessary arrangements for the implementation of a system which is fully compatible with EU related the official controls, especially with Boundary Control Points, creating and developing the necessary institutional structures and providing financing for them. Turkey must show that it has sufficient institutional capacity for the correct application of the acquis under this chapter after accession.



#### **4.1.1.2. Screening Report**

Screening Report which was published on 8 February 2007 contains the evaluation which was made by the Commission according to the information provided by Turkey related to chapter. The report can be examined in two parts. In the first part, information about the general situation in Turkey is given under the "Country Alignment and Implementation Capacity" and in the second part assessments based on the first part was made under the "Assessment of the Degree of Alignment and Implementing Capacity". These parts consist of animal health, supply of the food and feed, specific rules for feed and phytosanitary policy headings apart from the rules of food safety. The report also consists of a short result part. The report indicated that there is a remarkable harmony in the field of food safety than other areas.

According to the report the institutional structure should be strengthened by Turkey for implementing the EU acquis in the field of food safety. It is indicated in the report that in addition to increasing the need for numerical structures in this field, the improvement of technical equipment and facilities for training of personnel should be done. It is specified that this capacity-building activities will be needed in supervision and monitoring, laboratories and border control points.

The report recommended that a plan should be done for transposition. The importance of transposition of these laws has been mentioned according to a schedule determined by the priorities of arrangements in the chapter after establishing the framework law. A strategy document should be prepared in order to put into practice them. Works in preparation of such a strategy was reached the last point within the Ministry. This strategy document, which is prepared for the adoption of the acquis, will be communicated to the Commission when it is completed.

The Turkish legislation matched with EU legislation at some point up to now, but in some areas such as the powers of different institutions, the responsibilities of operators, basic functions in risk assessment and risk management are needed to be changed.

It was stated in the report that Turkey has been working intensively to reform legal framework in the chapter of food safety during the years of 2001 and 2002. Turkish legislation largely been based upon EU acquis because of the targeting the European and international markets of food operators and promoting a modern legal framework.

Evaluations about labelling, food additives, extraction solvents, flavouring agents, food contact materials and substances, food supplements, foods for particular nutritional uses, quick-frozen foods, contaminants, novel foods and genetically modified foods (GMOs), irradiation and mineral water in relation to food safety are included in the report. These evaluations are in the part that examined current Turkish food legislation.

However, the export of animal products are crucial considering the conditions of animal health because of the criticality of the animal health situation and reports of the continuing risks for a long time in terms of imports. Limitation of the administrative capacity in application of control measures, proroguing of legal regulations because of the new food law and limitation of financial resources are stated as reasons of this. Turkey should increase the share of veterinary services in the national budget to meet the expenditure during large-scale outbreaks of animal diseases.

It is stated in the screening report that Turkey should make progress in animal welfare as an essential element of food safety as also stressed before in the FVO missions about animal products.

#### **4.1.1.3. Progress Report 2011**

Some progress towards transposition and implementation of the EU *acquis* has been observed. The Ministry of Agriculture and Rural Affairs has been restructured by Turkey: a decree concerning the organisation and duties of the Ministry of Food, Agriculture and Livestock was established in June 2011. Veterinary services, Plant health, Food and Feed Law has entered into force. However, some problems have arisen due to the time gap between the entry into force of the law and its implementing legislation.

In the field of veterinary policy, some progress has been observed on the transposition and implementation of EU *acquis*. Although the official control system has been strengthened, further alignment is still required for bringing the overall system fully into line with EU *acquis*. In the area of control systems for imports, progress has been observed on the legislative alignment. A regulation concerning the tasks and working principles of veterinary border inspection posts has been established and has entered into force. However, there are still some lacks of implementation. Three land and two seaport border inspection posts (BIPs), and the BIP at Istanbul Sabiha Gokcen Airport, are still not fully functional. Controls and checks of veterinary and phytosanitary at the BIPs need to be intensified, especially by introducing additional educational and specialised staff.

Efforts of Turkey to bring the system for identification and registration of bovines and their movements into line with the EU *acquis* have been continued. Nevertheless, additional developments are required for it to entirely comply with the EU system. Implementation of the identification and registration of ovine and caprine animals has continued. A key element for the accession negotiations in this chapter is identification and registration systems for animals.

Turkey has maintained its fight against animal diseases, especially against FMD, which is a key element for the accession negotiations in this chapter. A regulation on the notification of animal diseases and a regulation on the control of FMD have been established and have entered into force. Contingency plans about FMD are still to be adopted. As a result of training events and simulation exercises, the administrative capacity of the Ministry of Agriculture and Rural Affairs has increased. The implementation of an intensive FMD vaccination programme and strict measures governing animal movement between Thrace and Anatolia has continued. Thrace has kept its status of an FMD- free zone with vaccination. However, the number of FMD outbreaks in Anatolia has remained a cause for concern. About TSE, which is a key component in the accession negotiations on this chapter, was not made any progress by Turkey. Timely notification of animal diseases, which is another key element for the accession negotiations in this chapter, has continued. About controls of non-commercial movements of pet animals has not made any progress by Turkey.

Procedures about the implementation and follow up of the national residue monitoring plan and the control of veterinary medicinal products have been further improved. Laboratory performance has increased significantly; however, the scope of testing has remained limited.

The *de facto* import ban on live cattle, beef meat and derivate products is still only partially and temporarily removed. Turkey should do further efforts to fully implement its bilateral obligations under the trade agreement for agricultural products. Progress on zoo-technical issues or animal welfare has not been made by Turkey. Animal welfare is a key aspect of the accession negotiations in this chapter. Turkey's current system for financing veterinary inspections and controls is not in line with the EU acquis.

Some progress about placing on the market of food and feed and animal by-products has been observed. With intensive training programmes, administrative capacity has been strengthened. Annual inspection and monitoring programmes have been implemented. Initial steps for developing a national upgrading plan for agri-food establishments, which constitute a key element for the accession negotiations in this

chapter, have started. For more effective official controls of including those for animal products, responsibilities have been assigned to different departments and institutions. For the accession negotiations in this chapter, implementation of a fully compliant system for all official controls is a key element. Hygiene guidelines have been prepared. In the sectors hygiene guidelines have been implemented more widely. However, legislation transposing the hygiene package, and including specific rules for animal products, has yet to be adopted. Legislation on feed hygiene has not yet been established. No progress about the rules for animal by-products or the funding of checks has been observed.

In legislative alignment and implementation on labelling, additives and purity criteria, extraction solvents, quick frozen foodstuffs, food for particular nutritional uses, ionising radiation and mineral waters regarding food safety rules have been further improved. Transposition in the area of flavourings, food supplements, food enzymes, contaminants and novel foods has not yet been completed. Progress about the area of food contact materials has not been observed.

Progress about specific rules for feed has not been reported.

Some progress has been made on phytosanitary policy mainly focusing on plant protection products (PPPs). Legislation concerning the wholesale, retail sale and storage of PPPs, the application methods and principles of PPPs, the licensing of PPPs, classification, packaging and labelling of PPPs, control of PPPs as well as methods and principles of PPP production places have been established and have entered into force. There has been further improved in alignment of unauthorised active substances. A regulation concerning the plant passport system and registration of the operators has been established and has entered into force and the implementation of the plant passport system in pilot species has started. Very limited progress in the area of seed and propagating materials has been observed. There has been limited progress about harmful organisms. A regulation on plant quarantine fumigation has been established and has entered into force.

Legislation about genetically modified organisms has been published; however, it is not in line with the EU acquis.

Progress about transposition and implementation of the EU acquis in this chapter has been achieved. The restructuring of the Ministry of Agriculture and Rural Affairs is good step for strengthening the official control system. However, there should be further alignment in order to bring the overall control system fully into line with the EU acquis. Also there should be considerable effort in the area of animal health and in bringing agri-food establishments into compliance with EU hygiene and structural requirements.

#### **4.1.1.4. Benefits of the Food Safety Chapter**

Impacts of food safety, veterinary and phytosanitary chapter to Turkish daily lives which are caused by the studies that will be done within the scope of the chapter are summarized in the fact sheet that was published by the Secretariat General for European Union Affairs are as follows:

- Citizens will provide access to accurate information about safe food and food that they consume.
- Citizens' opinion about the arrangements of food will be taken and also they will participate in the decision making process.
- Traceability in the food chain will be more effective.
- More stringent controls on food and feed will be made and detailed control plans for these controls will be developed.
- If a problem about food is determined by controls, information will be entered to rapid alert system and in this way trace-back can be done and problems can be determined at its source.
- Plans for implementing in emergency situations and crises which are caused by food and feed and cause serious health problems in humans will be established and in this way intervention should be done without any point-blank.

- If it is understood that the food is not safe, it will be recalled from the market like drugs.
- Food producing establishments which are using the herbal products and feed producers including restaurants, sales outlets and storage areas will be recorded and will obey the hygiene rules which are set out for them.
- Fishing boats will also obey the hygiene rules and will be recorded.
- Processors who use animal products such as meat, milk, fisheries and egg will be subjected to approval and will obey more strict hygiene rules.
- Food businesses will have the all responsibility for food safety and they will provide hygiene and education of employees.
- The quality of raw milk will increase with taking under the control of animal diseases. Ratio of diseases which are transmitted through food will be reduced.
- Sheep, goats and all bovine animals will be tagged from birth and information such as where to sell and where to kill will be recorded.
- Horses and mules also will be tagged and recorded.
- Information about meat such as from which animal it is obtained, who is the mother of that animal, by whom this animal is bought and sold, how many births did it give, where did it travel, drugs and vaccines that are used will be accessed by consumers, if desired.
- Animal welfare and protection will be provided during its raising in the farm, transportation and at the time of slaughtering. Stables, transport vehicles and slaughterhouses are designed and constructed according to establishing rules.
- The number of pesticides used in agriculture will be reduced; those that may pose a risk to human health and environment cannot get into the market.
- Levels of drug residues and pesticides on foods that will be compatible with the EU and in this way there will be a decline in the number of returned shipment.
- Food additives, sweeteners, flavouring agents, solvents, residues of veterinary drugs, plant protection drug residues, labelling and disclosure rules, sampling plans and methods of analysis, which are important parts of food safety, will be reviewed within the rules of the EU and arrangements of the new legislation which gives safety of consumers prominence and eliminates trade barriers will be done.

- Food safety criteria for food contact materials which is a major part of food safety will be revised and implemented in the field.
- Number of enterprises which produce in accordance with the EU criteria and makes exports to the EU will increase and in this case exports with the countries which takes the EU as reference will develop.

#### **4.2. New Turkish Food Law: Law No 5996 On Veterinary Services, Phytosanitary, Food And Feed**

Law No. 5996 on Veterinary Services, Phytosanitary, Food and Feed, which replaces the Law No. 5179, was adopted on 11.06.2010 in the Turkish Grand National Assembly and published in the Official Gazette No. 27610 on 13.06.2010 due to criticizes of the EU because of the authority confusion and inconsistencies, restructuring of the Ministry of Agriculture and Rural Affairs.

The Law consists of 51 articles in 9 section;

1. General Provisions
2. Animal Health, Animal Welfare and Zootechnics
3. Veterinary Health Products
4. Phytosanitary
5. Food and Feed
6. Hygiene
7. Official Controls
8. Criminal Actions
9. Miscellaneous Provisions

Can be seen in the content, law is basically formed by bringing together 5 different laws (Law No 3285 on Animal Health and Surveillance, Law No. 4631 on Animal Improvement, Law No. 6968 on Agricultural Quarantine, Law No. 1734 on Feed and Law No. 5179 on Food). Thus, the law is addressed to a wide area such as from "dietary foods for special medical purposes" to "pedigree".



The innovations of the Law No. 5996 are;

- Animal identification and registration of businesses,
- Plant passport requirement in plant and plant products transplants,
- Prescription requirement in the sale of plant protection products,
- Giving the basic responsibility to food business operators in providing food safety,
- Setting up of risk assessment unit,
- The introduction of the registration and approval system like in EU,
- Giving the basic responsibility about hygiene to the primary producers as well.

#### **4.2.1. Comparison of The Law No. 5179 with The New Turkish Food Law No. 5996**

The second and third part of the Law No. 5996 give the impression that draft has been prepared on the basis of animal health, animal welfare, zootechnics and veterinary health products, though other issues were discussed as a part of the animal health and veterinary services. For example, food of animal origin was added to definition of animal products; thus, the law was established in repeating and it was put in the same article with live animals. In this way, the authority on this subject tried to be given into a single occupational work area. Therefore, products of animal origin food were tried to be apart from food law part. Whereas, these kinds of food products are part of the definition of food as well as other foods. These kinds of foods are considered in the definition of food in the Law No. 5179.

Obligation of the engagement director was removed with the Law No. 5996 and obligation of working professionals related to the subject was identified for food and feed businesses, and also which professionals can control which businesses was clearly identified. Employment of engagement director according to the nature of the production was mandatory in the Law No. 5179.

There are deficiencies and inadequacies in food and feed safety conditions of the fifth part of the Law No. 5996. Terms mentioned in the text such as safe food, unsafe food, questionable foods, non-suitable food for consumption are not explained. These terms must be clear and unambiguous.

There are shortcomings and inadequacies in the Responsibilities part of the Law No. 5996. Businesses subject to approval and registration are expressed to identify by the Ministry. Businesses subject to approval will get the permission of the Ministry before operation and businesses subject to registration will notify the Ministry about their activities. According to EU legislation, businesses subject to approval are animal origin food and feed businesses. Yet, the law No. 5179, all businesses that produce food had to be recorded to food registration.

With the law No. 5996, 7 days have been granted upon notification date for reclamations, and it is expressed that no reclamations might be made in cases where the amount of product in order to make the analysis of the arbitration specimen and the microbiological analysis of products whose remaining shelf life is no longer than 7 days, and that the costs of the reclamations be met by the relevant authorities. These issues are not included in the Law No. 5179.

Law No. 5996 gives the authority to the Ministry to make special arrangements to indicating the health mark was the official controls, to making markings about identification and to providing traceability. In addition, establishment of the good practice guides will be encouraged by the Ministry.

Food businesses are obliged to establish and implement of food safety system which is based on HACCP. These provisions are not included in the Law No. 5179.

The National Food Codex Commission is remained the same but structure and mode of operation has left to the regulation to be issued. In addition, articles which were in the Law No. 5179 related to the National Food Council and the Association of Food Banks, scientific committees are not included in this Law.

Wider definitions of advertisement and promotion has been included to the Law No. 5179 but not in the new law.

While authority on inspection was given to the local administrations with the Law No. 5179, this authority was given to the Ministry of Agriculture and Rural Affairs with the Law No. 5996.

With the Law No. 5996 the Ministry will be able to take charge in exchange for official controls. However, in the Law No. 5179 control services are considered as a public service and free of charge. In addition, the manufacturer will be charged for disposal of non-conforming products by the new law.

The exceptions about the first production, personal consumption and traditional production, prey animals have been brought by the Law No. 5996. In addition, the authority to exceptional provisions about the location of the sacrificial animal slaughtering and cutting was given to the Ministry. There are not provisions on these issues in the Law No. 5179 (Artik 2010).

#### **4.2.2. Comparison of EC General Food Law Regulation 178/2002 with Turkish Food Law No 5179**

Comparing the “Purpose and Scope” (Article 1) of the EU General Food Law with the “Purpose” (Article 1) and “Scope” (Article 2) of the Turkish Food Law;

- While expression of “high level protection of human health and consumer interests” is highlighted in EU General Food Law, “high level of protection” phenomenon which is most often investigated in EU is not taken place here as well as in all parts of the Turkish Food Law. In addition, “protection of consumer interests” in the General Food Law is expressed as “producer and consumer interests” in the Turkish Food Law.
- The expression of “taking into consideration the diversity of food supply including the traditional products” in EU General Food Law is not taken place in the Turkish Food Law.
- While “food” and “feed” are considered together in EU General Food Law, only “food” takes place in the Turkish Food Law, “feed” does not included in any section of the law.
- The areas that the Regulation is applied are specified as “each phase of the production, processing and distribution” in EU General Food Law and have kept it throughout the entire Regulation. In the “Scope” of the Turkish Food Law this expression which encompasses the entire application is not used, instead of this if necessary application areas were counted one by one. In addition, while “primary production for use at home or at home preparing for consumption, handling or storage” is the area that cannot applied the Regulation according to EU General Food Law, it is not included in the Turkish Food Law as out of scope.

Fitting together the first sections, which determine the purpose of the law, the application area, scope of the law, boundaries of the law, are router and important in assessing compliance to judge the harmonization of the Regulation.

Comparing the “Definitions” (Article 2) of EU General Food Law with the “Definitions” (Article 3) of the Turkish Food Law;

- There are differences in definitions of “food” of both laws. While the expression of “food taken into the body through the mouth” is states in EU General Food Law, “eaten and / or drunk” statement is used in the Turkish Food Law. Water, which is used in manufacture, preparation or intentionally participated in the treatment, is included in the definition of food if it meets particular requirements but this is not expressed in the Turkish Food Law. “Feed, live animals which are not placed on the market for human consumption, plants prior to harvesting, medicinal products, cosmetics, tobacco and tobacco products” were left out of the concept in the General Food Law, but in the Turkish Food Law it is "tobacco and substances that only used for drugs” and incomplete.

Comparing the “Other Definitions” (Article 3) of EU General Food Law with the “Definitions” (Article 3) of the Turkish Food Law;

- The definition of the “food law” in the General Food Law covers “feeds that are produced for food-producing animals or administered to the animals”, but this definition is not seen in any part of Turkish Food Law.
- “Profit-making or non-profit, public or private enterprise” are added to definition of the “food businesses” in the General Food Law, but this is not added in Turkish Food Law.
- Law "feed", "feed enterprise" and "feed business operator" are included to definitions in the General Food Law, but they are not included to definitions in Turkish Food Law.

- According to the General Food Law, the definition of “retail” is related to sales to end consumers and retail outlets are stated in the law. This is not included in Turkish Food Law.
- While “Risk Management” definition of the General Food Law emphasis on weighing policy alternatives in consultation with relevant parties in EU that has not been expressed in Turkish Food Law. In addition, while other legal factors also taken into account in addition to the risk management according to the General Food Law, this expression was used as taken into consideration other legal obligations in Turkish Food Law.
- To exchange information about hazards and discerning risks are also included to the definition of the “risk communication” in General Food Law, but in Turkish Food Law only risk and risk-related factors are written. In addition, the parties except , risk assessors and risk managers that are subject to risk communication are more clearly specified as "consumers, businesses, academic sector" in General Food Law but it is left as other interested parties in Turkish Food Law.
- Feed is considered in the definition of the “hazard” in General Food Law, but it is not considered in Turkish Food Law.
- "Feed, food-producing animal, or any substance involved in every stage of production, processing and distribution of food" are included in the definition of “Traceability” in General Food Law, but these considerations are not included in Turkish Food Law.
- Definition of “production, processing and distribution stages” is done as continuously passes in the text pattern in General Food Law, but this is not done in Turkish Food Law.
- While the expression of “production, growing and raising of the primary products” is passed in the "primary production" definition of General Food Law, Turkish Food Law did not include this.

In case of difference in the definitions, even the provisions within the law are the same but have different meanings, Commission officials tend to emphasize particular differences in definitions.

“Producing feed for food-producing animal or feed given to them” expression is included to the “Scope” (Article 4) of General Food Law which is given in the second part of EU. This phrase is not included in Turkish Food Law.

"High level of protection", which is not exceed in Turkish Food Law, is included to "General Objectives" (Article 5) of General Food Law. In addition, fair practices in food trade, animal health and welfare, taking into account plant health and the environment are mentioned in General Food Law but these are not mentioned in the Turkish Food Law.

Although the high level of protection of human health and life is highlighted under the heading “Risk Analysis” in General Food Law (Article 6), the expression of “high level” is not highlighted in Turkish Food Law.

Although the provision under the heading of "Precautionary measures” in General Food Law (Article 7) is the same with Turkish Food Law (Article 10), the phrase of “high level protection of health” is not included in Turkish Food Law. In addition, measures are drawn at “high level protection of health should not be restrictive to trade and should be reviewed within a reasonable period of time” in General Food Law, but Turkish Food Law does not include such a provision.

While the expression of “provide a conscious choices of consumers about the foods they consume” is emphasized in “protection of consumers’ interests” (Article 8) of General Food Law, there is not such an expression in the “protection of consumer rights” (Article 22) of Turkish Food Law. Furthermore, in Turkish Food Law there is an unnecessary expression such as “information about contents and features of the food to consumers is provided if necessary”, the phrase of “if necessary” should be removed. While the prevention of the “collusive practices” and the “adulteration” were clearly stated in General Food Law, it is given in the expression of “misleading the consumers” in Turkish Food Law.

Headings of “Public Consultation” (Article 9) and “Public Information” (Article 10) in General Food Law are not transferred to Turkish Food Law.

While feed is also mentioned with the food in each section under the heading of “General obligations of food trade” in General Food Law (Article 11 and 12), feed is not exceed in Turkish Food Law (Article 19). The provision related to “International Standards” (Article 13) is not transferred to Turkish Food Law.

“Food safety requirements” is in General Food Law (Article 14), but there are some provisions are not addressed in Turkish Food Law (Article 7 and Article 17). The statement of “food cannot be placed on market unless it is safe” is not included in Turkish Food Law, but instead the statement of “products that will be placed in the market must comply with the legislation” is given. In General Food Law, in which conditions food is unsafe is given, while the detection of harmful effects to the health of the food not only short-term effects but the long-term effects of the next generations and the possible toxic effects should be taken taking into account is emphasized. These provisions should be included in Turkish Food Law.



"Feed safety requirements" (Article 15) and "Responsibilities for feed: feed business operators" (Article 20) in General Food Law are not included in Turkish Food Law.

Feed operators have the same responsibilities at the each stage with the food operators in the "Responsibilities" of General Food Law (Article 17), this is not included in Turkish Food Law (Article 17). In addition, although public communication relating to food and feed safety and the risks is mentioned in General Food Law, it is not included in Turkish Food Law.

While feed, food-producing animals and any substance that can participate in feed are also the scope of the traceability apart from the food in the heading of "Traceability" of General Food Law (Article 18), only food and substances that put in the food are the scope of the traceability in Turkish Food Law (Article 16). In addition, operators have the ability and traceability systems and procedures in place to prove the traceability the information that is requested by the competent authorities traceability systems and procedures in place according to General Food Law, but in Turkish Food Law, information will be given the expression of information will be given to the competent authorities "if necessary" is not as good as with General Food Law.

In addition to food does not conform to specified conditions, a reason to believe the food is not complied with specified conditions are thought by the operators for the withdrawal of food about the "Responsibilities for food: food business operators" is mentioned in General Food Law (Article 19). This is not mentioned in Turkish Food Law (Article 17). In addition, the need to inform consumers effectively and correctly of the operators when the product reaches the consumer is emphasized in General Food Law, but this is also not mentioned in Turkish Food Law.

In addition to all, the provisions of hygiene package which is a part of Regulations 852/2004, 853/2004, 854/2004 and 882/2004, should be harmonized in the Turkish Food Law or should be done a separate legal framework. (Gultekin 2005).

#### **4.2.3. Comparison of EC General Food Law Regulation 178/2002 with the New Turkish Food Law No. 5996**

As said before the EU food law based on food safety from farm to fork, risk analysis, precautionary principle, protecting consumer rights and transparency. Furthermore there are some necessities for food such as harmfulness of the food, accuracy of the information, recalling from the market and traceability (Eksi 2012).

Table 2. Differences Between EU Food Law and Turkish Food Law

	<b>EU FOOD LAW</b>	<b>TURKISH FOOD LAW</b>
Food Safety From Farm To Fork	Law contains the whole food chain from primary producers to consumers.	Turkish Food Law has the same approach.
Risk Analysis	Risk analysis should be based on the scientific evidence and should be independent, objective and transparent. Opinions of EFSA are important for the risk assessment.	There is not independent body for risk assessment. Risk assessment commissions make decisions as an advice.
Precautionary Principle	If there is a probability of harmful effect and scientific uncertainty continues, temporary risk management measures should be taken for safety and searching for scientific information should continue for comprehensive risk analysis.	If there is a probability of harmful effect and scientific uncertainty continues, production or consumption should be banned until comprehensive risk analysis.
Protection of Consumer	Consumers should be protected from imitation, adulteration, misleading.	Foods must not be harmful to health and must be appropriate for consumption; information should not mislead the consumer.
Transparency	Information must be given to consumers and consumers should be consulted.	Results of controls should be given if appropriate; information about importance of the risk and measures should be given.

Harmfulness of the Food	Food for consumption should not be harmful and should be appropriate for consumption.	Prohibition of placing on the market of safe/unsafe food is forbidden.
Accuracy of the Information	Label, advertisement and identification information should not mislead the consumer.	Label, advertisement and identification information should not mislead.
Recalling from the Market	Obligation of the recalling from the market of the food by the operator in the situation of opposite food safety requirements.	Authority of the sales of foods which are not based on the law and obligation of the recalling from the market of the food by the operator
Traceability	Traceability system which gives information about the previous one and the next one in the stages of production, manufacturing and distribution.	Traceability should be provided by the food operator in the stages of production, manufacturing and distribution. Labelling system which provides this.

## 5. CONCLUSIONS

The concept of food safety has not acquired the meaning that is given to it today, has been evolved over time with changing time and technology and life style and also has been continuing to evolve. The food legislation including horizontal and vertical regulations that has been developed as a result of various cases by EU, to prevent the harm from such cases as the BSE and dioxin crises in the 90s happening again. These crises in the field of food, which occurred in years of industrialization, showed that only horizontal and vertical legislation is not enough and finding a way to prevent the crises before they occur is important.

In this context, in the early 2000s firstly with the White Paper, it was expressed that binding regulation which creates a new perspective and a common application area is a necessity. “Farm to fork” approach emerged with this book and also it emphasizes that in order to reach safe food at every stage of the food chain should be included. With the law No. 178/2002/EC which was enacted in 2002 and also known as the "General Food Law", framework legislation period which is binding for all member states has started. The EU food law has drawn the framework about the food safety and its inspection, and identified the basic concepts such as food chain, risk analysis, early warning system and traceability, set up the EFSA which is responsible for risk assessment and risk communication and listed the general food safety principles of EU.

It is obvious that EU has a very comprehensive approach which contains the entire food chain with the new principles of 178/2002/EC after the “White Paper on Food Safety”. Food safety system aims to safe and high quality production from farm to fork at every stage of the food chain with the basis of risk analysis, traceability, responsibility and transparency rather than the systems that based on the traditional end-product quality. Protection of consumers’ health and gaining their trust are the priority goals of EU.

In EU, there are many food-related legal regulations, which are obligations to transposition for the member states that determine the provisions in a number of different areas such as from food inspection to contaminants and additives apart from the General Food Law. EU food legislation mainly has left the responsibility to food industry for ensuring food safety. The component authorities in the member states have the responsibility to check whether the industry implements the EU acquis or not. The Commission audit the member states whether they implement the EU acquis or not. The Commission performs this task via the Food and Veterinary Office. The FVO also audits the countries that imports food products to EU.

Since the 1930s efforts have been made to create food legislation in Turkey and food legislation has undergone constant change with the changing time. Responsibility to create and control of legislation were firstly given to the Ministry of Health, but some of the powers on the control of the food were granted to municipalities with the Law No.

1580 on Municipality in 1930. Thus, some food safety control unit was established in some municipalities. In the 70s, Ministry of Agriculture and Rural Affairs was included to share responsibility for food legislation. Major authority about creating legislation on foodstuffs has been transferred to the Ministry of Agriculture with the Decree Law No. 560 in 1995. Turkey has been declared as a candidate country for EU membership in December 1999. EU membership makes it necessary to take step in the field of food safety as well as many others. Law No. 5179, which was the most important step in food safety, was established in 2004 to comply with EU legislation in particular to 178/2002/EC and to collect the food safety control in one hand. Although this law has brought many innovations related to food legislation, it was not able to make its way to the aimed level.

Due to criticisms about the Law No. 5179 of EU, Law No. 5996 on Veterinary Services, Phytosanitary, Food and Feed was established on 11.06.2010 by Turkish Government. Law is inapplicable because of its wider approaches such as vegetable products which are not for human consumption, animal products, embryos, semen and veterinary health products apart from the food and feed substances. Because, even though they are part of food safety, different disciplines (such as phytosanitary, animal welfare, animal movements, veterinary health products, food and feed) have been collected under a single law. Including disciplines each different one another as quadruplet or quintuplet packs within the scope of one single Law led to losing the integrity on the basis of subjects, shortening the related chapters, and leaving them with insufficient analysis.

Food control is only done by the public sector in EU. Both with the Law No. 5179 and Law No. 5996 food control can be denationalised. Also Ministry can charge for official control. However, food safety service is a public service and cannot be charged.

Although an authority about risk assessment should be established like in EU, It is expressed in the law that risk assessment is done by the Ministry of Agriculture according to the independent, impartial and transparency principle and scientific evidence. There is not any provision on how to apply the principles and how to ensure the independence and impartiality.

The Ministry can give mandate its duties and powers except for criminal powers. Following the establishment of the Regulation 178/2002/EC in 2002, member countries re-established their food control system, which was carried out by different institutions, with the approach of protection of consumer and food safety. Although there are structural differences in EU member states, government agencies conduct official inspections and controls of food.

Unregistered food premises and lack of control are the important problems of Turkish food sector. Producers who are not informed enough in the agricultural sector, existing premises that are deprived of making production and competitiveness, premises that usually operate under 50% capacity and modern technology that has not entered to agriculture leads to failure in the food industry. Limited classification of enterprises in the way of compliance of Turkish food industry with EU standards is another obstacle which is caused by nonregistration. The compatibility of companies and sectors is intended to find out with classification. Thus, companies and firms which may be subject to modernization or closed is decided in the short, medium and long term by determining classification.

As a result, Turkey has made significant progress in the field of food safety for making production in EU standards by renewing its legislation and activating new applications. The most powerful aspects of the new system are that the Ministry of Food and Agriculture is the only authority in food control even if it may delegate its powers and responsibilities and the food law is generally consistent with EU criteria. Although the food control criteria are scientific and current, infrastructure of the control system (public laboratories and control officers) has not reached the desired level yet. But it is not possible to say that what was done is enough. In order to have a food law and food

safety in EU standards, the last food law should be revised, risk assessment unit like EFSA should be set up, arrangement should be made about the deterrent effect of fines, educations about HACCP should be increased and consumer education should be made for prevention of misleading information. In order to reach the demanded level, it is required by approaching the food safety with all its contents from field to fork that a progress be made within the framework of a schedule.





Table 3. Food Legislation List of European Union

<b>Legislation</b>	<b>Title</b>	<b>Official Journal Reference</b>
Regulation (EC) 178/2002	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	OJ L 031, 1. 2. 2002
Directive (EC) 2002/99	laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption	OJ L 018, 23.1.2003
Regulation (EC) 882/2004	on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules	OJ L 165, 30.4.2004
Regulation (EC) 853/2004	laying down specific hygiene rules for on the hygiene of foodstuffs	OJ L 139, 30.4.2004
Regulation (EC) 854/2004	laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption	OJ L 226, 25.6.2004
Regulation (EC) 852/2004	on the hygiene of foodstuffs	OJ L 226, 25.6.2004
Regulation (EC) 1099/2009	on the protection of animals at the time of killing	OJ L 303, 18.11.2009
Directive (ECC) 64/432	on animal health problems affecting	OJ L 121,

	intra-Community trade in bovine animals and swine	29.7.1964
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Table 4. Food Legislation List of Turkey

<b>Legislation, Year</b>	<b>Title</b>	<b>Official Gazette Reference</b>
Law No. 1580, 1930	on Municipality	OG 1471, 14.4.1930
Law No. 1593, 1930	Public Health Law	OG 1489, 6.5.1930
Law No. 6968, 1957	on Agricultural Quarantine	OG 9615, 24.5.1957
Law No. 1734, 1973	on Feed	OG 14557, 7.6.1973
Law No. 3285, 1986	on Animal Health and Surveillance	OG 19109, 16.5.1986
Law No. 5179, 2004	on the Adoption of Changes in Statutory Decree Numbered 560 on the Production Consumption and Inspection of Food	OG 25483, 5.6.2004
Law No. 5996, 2010	on Veterinary Services, Phytosanitary, Food and Feed	OG 27610, 13.06.2010
Law No. 4631, 2001	on Animal Improvement	OG 24338, 10.3.2001
Decree No. 560, 1995	on the Production, Consumption and Inspection of Food	OG 22327, 28.6.1995
Turkish Food Codex Regulation		OG 23172, 16.11.1997
Regulation on the Food Production Consumption and Inspection		OG 23367, 9.6.1998
Regulation on the Establishment and		OG 24160, 4.9.2000

Operation of Private Food Control Laboratories		
Regulation on the Establishment Opening Operation and Inspection Procedures and Principles of Red Meat and Meat Products Production Facilities		OG 25691, 5.1.2005
Regulation on the Establishment Opening Operation and Inspection Procedures and Principles of Poultry Meat and Products Production Facilities		OG 25694, 8.1.2005
Regulation on the Harvesting Packaging Marketing and Inspection of Potable Waters		OG 25730, 17.2.2005
Regulation on Identification, Registration and Monitoring of Sheep and Goat		OG 27137, 10.2.2009

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