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Safety of animal food imported into the European Union in light of the European Union-Mercosur Partnership Agreement

Sicurezza degli alimenti di origine animale
importati nell'Unione europea alla luce dell'accordo di partenariato
tra l'Unione europea e il Mercosur

The purpose of the considerations is to determine the result of comparing the EU safety requirements for food of animal origin with the terms of the EU-Mercosur Partnership Agreement regarding the safety of these products. It is also to formulate an answer to the question of whether food of animal origin intended to be imported into the European Union would have to meet the same standards for ensuring safety as food produced and marketed in the EU. The author concludes, among other things, that the European Union retains the authority to verify the safety standard of food of animal origin. The EU-Mercosur agreement could also remove technical barriers to trade between the parties, if an adequate degree of international harmonization of sanitary and phytosanitary standards has been achieved. Compliance instruments, such as due diligence under the EUDR for certain products and conformity assessment for all products covered by the EU-Mercosur agreement, could potentially guarantee common and uniform consumer health protection.

Keywords: food safety, international trade, Mercosur

L'obiettivo della riflessione è di determinare l'esito del confronto tra i requisiti dell'Unione europea in materia di sicurezza degli alimenti di origine animale e le disposizioni previste dall'accordo di partenariato UE-Mercosur riguardanti la sicurezza di tali prodotti. Si intende inoltre rispondere al quesito se gli alimenti di origine animale importati nell'Unione europea debbano rispettare gli stessi standard di sicurezza applicati agli alimenti prodotti e immessi sul mercato nell'UE. Nella parte conclusiva, l'Autrice afferma, tra l'altro, che l'Unione europea mantiene il diritto di verificare gli standard di sicurezza degli alimenti di origine

animale. L'accordo UE-Mercosur offre inoltre la possibilità di eliminare le barriere tecniche al commercio tra le parti, qualora venga raggiunto un adeguato livello di armonizzazione internazionale delle norme sanitarie e fitosanitarie. Gli strumenti di conformità, come la due diligence nell'ambito dell'EUDR per alcuni prodotti e la valutazione della conformità per tutti i prodotti coperti dall'accordo UE-Mercosur, potrebbero potenzialmente garantire una protezione comune e uniforme della salute dei consumatori.

Parole chiave: sicurezza degli alimenti, commercio internazionale, Mercosur

Introduction

Food safety is a basic category of food law. Although it is defined by national legislation rather than EU regulation, it is an expression of legal language. EU regulation only indicates the criteria for evaluating an unsafe foodstuff, while the basic idea is that the food is not harmful to health, and that it is fit for human consumption.¹ These two characteristics: harmfulness to health and suitability for consumption, are subject to scientific risk assessment, based on the precautionary approach. The criteria for assessing hazardous characteristics for human health are detailed in various EU legislative texts.²

Food safety has become the most important feature of a product placed on the market in the European Union, of importance to both the final consumer and food business operators.

The term “products of animal origin” refers to food of animal origin, including honey and blood; live bivalve mollusks, live echinoderms, live tunicates and live marine gastropods intended for human consumption and other animals intended to be delivered in live form to the final consumer.³ In general, these are foods derived from animals designated by law.

¹ More on the concept of dangerous food: K. Leśkiewicz, *The legal concept of unsafe (dangerous) food*, “Studia Iuridica” 2022, vol. 95, pp. 264–282; K. Leśkiewicz (ed.), *Legal Protection of Human Health Against the Unsafe Agricultural Food*, Warszawa 2022.

² E.g., Regulation (EC) No. 178/2002 of the European Parliament and of the Council of January 28, 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in the field of food safety (OJ L 31, 1.02.2002, pp. 1–24; hereinafter: Regulation No. 178/2002).

³ Section 8.1 of Annex I to Regulation (EC) No. 853/2004 of the European Parliament and of the Council of April 29, 2004, laying down specific hygiene rules for food of animal origin (OJ L 139, 30.04.2004, pp. 55–205; hereafter: Regulation No. 853/2004); cf. Law on Products of Animal Origin of December 16, 2005 (i.e. OJ EU of 2023, item 872).

Initially, trade relations between the EU and Mercosur⁴ (Argentina, Brazil, Uruguay and Paraguay) were based on the Inter-Regional Framework Cooperation Agreement which entered into force in 1999. The European Union and individual Mercosur countries have entered into bilateral agreements (under the Bilateral framework agreements for cooperation with the Mercosur countries). These agreements also regulate various aspects of trade.⁵ On 6 December 2024, the EU and Mercosur reached a political agreement on an enhanced EU-Mercosur Partnership Agreement. The EU-Mercosur Partnership Agreement was negotiated for about 25 years. It regulates a number of important areas of international trade in food, covering, among others, food safety issues.

The legal literature has not yet considered the topic of food safety of animal origin in light of the new EU-Mercosur partnership agreement. Only some aspects of this issue have attracted the interest of researchers⁶ including foreign ones.⁷ More attention has definitely been paid to this issue in the writings of economic sciences focused, in particular, on the impact of international trade with Mercosur countries on the agri-food sector in individual EU Member State, and therefore also Poland.⁸

There are several reasons for undertaking the study of the topic covered in the title of the article, among which are consumer health protection, economic and cognitive considerations.

When it comes to consumer health protection considerations, it should be noted that, given the objective of food law is to ensure a high level of protection for human health, it would be undesirable for the trade agree-

⁴ Mercado Común del Sur – Common Market of the South, an international economic organization established in 1991 with the Treaty of Asunción (Paraguay). The EU-Mercosur Trade Agreement (EUMETA) is part of the EU-Mercosur Association Agreement (EUMEEA). The EU-Mercosur trade agreement has not been made public so far, in the article the author relied on the content provided by the European Commission on its website, which is not the source text of the agreement and sometimes is a description of the parties' arrangements and may not be exhaustive, and without an official translation into Polish: as of 2.03.2025, website: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercotur/eu-mercotur-agreement/text-agreement_en [accessed on 12.04.2025].

⁵ M. Bułkowska, *Potencjalne skutki utworzenia strefy wolnego handlu UE-Mercosur dla handlu rolno-spożywczego Polski*, "Studia i Prace WNEIZ US" 2018, no. 53/2, p. 144.

⁶ Cf. M. Król, *Otwarta, zrównoważona i asertywna polityka handlowa Unii Europejskiej a prawne instrumenty zapewnienia bezpieczeństwa żywności*, "Roczniki Administracji i Prawa/Annals of The Administration and Law" 2024, vol. 24, special issue, pp. 23–46.

⁷ L. Ghiotto, J. Echaide, *Study analysis of the agreement between the European Union and the Mercosur*, Berlin – Buenos Aires – Brussels 2019.

⁸ M. Bułkowska, *Potencjalne skutki...*

ment between the EU and Mercosur to carry the risk of importing unsafe food. Professional literature argues that “the agri-food sector is one of the most sensitive areas of negotiation, raising concerns, particularly regarding regulatory consistency, which could result in a lowering of food safety and environmental standards [...] Brazil and Argentina are major food producers and exporters, which could pose a threat to EU agriculture, and for that matter, Polish agriculture as well.”⁹ Significantly, food of animal origin is of particular concern. In 2024, the European Commission audited Brazil and found deficiencies in its meat export inspection system, one of them being the likely use of growth hormones that are banned in Europe. This raised concerns about consumer safety.¹⁰ Imports from Brazil include mainly sirloin, entrecote and roast beef i.e. meats that have the highest value in the carcass. Therefore, it is of the utmost importance that the agreement between the EU and Mercosur does not allow for any deviation from EU safety standards for the aforementioned products.

There are certainly numerous economic considerations that support the elaboration of the issue specified in the title, due to the extensive subject matter of the agreement between the EU and Mercosur, which covers various issues of economic importance, such as customs duties, quotas and public procurement. Notably, although the EU is the most important supplier of agri-food products to the Mercosur market and the second largest market after China, trade relations between Poland and Mercosur have been regarded as “relatively underdeveloped.” Historically, Poland exported primarily food preparations to the Mercosur market, which included processed cereal products and confectionery, cocoa products and confectionery products confectionery breads. Whereas it imported waste and animal feed (soybean cake), tobacco and tobacco products, coffee, oil seeds and fruits (soybeans) and fruit juices.¹¹ This is sometimes considered to be an unfavourable situation for Poland, the largest producer of poultry in the EU and a significant beef producer.¹² As mentioned, any increase in imports from outside the EU could pose a threat to Polish beef and poultry producers. The export of meat

⁹ Ibidem p. 144.

¹⁰ M. Lewandowski, *Mercosur i Ukraina, czyli główne zagrożenia dla hodowli bydła w Polsce*, 19.02.2025, <https://www.agropolska.pl/produkcja-zwierzec/bydlo/mercotur-i-ukraina-czyli-glowne-zagrozenia-dla-hodowli-bydla-w-polsce,2490.html> [accessed on 17.05.2025].

¹¹ M. Bułkowska, *Potencjalne skutki*, p. 147.

¹² Ibidem.

and meat products accounts for the largest share of Polish agri-food exports, with around 80% of Polish exports going to the EU market.¹³

Taking into account cognitive considerations, it should be pointed out that the agreement is not yet fully public knowledge, as its “legal” content is still unavailable. The European Commission has made available only informative texts. It is therefore reasonable to study its potential legal effects, especially if the agreement were to be ratified by EU member states, which, however, is not obvious in view of the doubts raised.

The purpose of the considerations is to determine the result of confronting the EU requirements for the safety of food of animal origin with the terms of the EU-Mercosur future commercial agreement¹⁴ concerning the safety of these products, and to formulate an answer to the question of whether food of animal origin that would be imported into the European Union would have to meet the same conditions for ensuring safety as food produced and marketed in the Union. In realizing the goal thus defined, it is reasonable, first, to characterize the safety requirements of food of animal origin and then relate them to the selected provisions of the partnership agreement between the EU and Mercosur in the indicated scope.

1. The safety of food of animal origin in the European Union

As a rule, food imported into the European Union must comply with the general requirements established by Regulation 178/2002 or rules equivalent to those of the EU. According to Article 11 of Regulation 178/2002, “Food and feed imported into the Community for placing on the market within the Community shall comply with the requirements of food law or conditions recognized by the Community as at least equivalent thereto, or, where specific agreements exist between the Community and the exporting country, with the requirements contained in those agreements.” Undoubtedly, the EU-Mercosur Agreement is such an agreement, while these general food safety requirements referred to above have been widely discussed in the literature and do not need to be presented here in detail.¹⁵

¹³ Ibidem, pp. 143, 149.

¹⁴ In the publicly available version (as of April 15, 2025) selected provisions.

¹⁵ S.C. Barros, A.S. Silva, D. Torres, *Multiresidues multiclass analytical methods for determination of antibiotics in animal origin food: A critical analysis*, “Antibiotics” 2023, no. 12(2), p. 202; K. Adam, F. Brülisauer, *The application of food safety interventions in*

In principle, in the EU the standard of food safety of animal origin is set by a number of specific pieces of legislation.¹⁶ Those which need to be highlighted in particular are hygiene regulations for food production including HACCP, good hygiene practices and good production practices, animal welfare and animal health protection,¹⁷ as well as official food control regulations for food imported into the Union from third countries.¹⁸

primary production of beef and lamb: a review, “International Journal of Food Microbiology” 2010, no. 141, pp. 43–52; K. Leśkiewicz, *Prawo żywnościowe*, Warszawa 2020, p. 86 ff.

¹⁶ Regulation (EC) No. 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.04.2004, pp. 1–54. Special edition: Chapter 13, Volume 034, pp. 319–337; hereinafter: Regulation 852/2004); Regulation (EC) No. 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.04.2004, pp. 55–205. Polish Special Edition: Chapter 03, Volume 045, pp. 14–74; hereinafter: Regulation 854/2004); Commission Regulation (EC) No. 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs (Text with EEA relevance) (OJ L 338, 22.12.2005, pp. 1–26; hereinafter: Regulation 2073/2005).

¹⁷ Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the field of animal health (“Animal Health Law”) (Text with EEA relevance) (OJ L 84, 31.03.2016, pp. 1–208; hereinafter: Regulation 2016/429).

¹⁸ Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official acts carried out to ensure the application of food and feed law and rules concerning animal health and welfare, plant health and plant protection products, amending Regulations (EC) No. 999/2001, (EC) No. 396/2005, (EC) No. 1069/2009, (EC) No. 1107/2009, (EU) No. 1151/2012, (EU) No. 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No. 1/2005 and (EC) No. 1099/2009, and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing European Parliament and Council Regulations (EC) No. 854/2004 and (EC) No. 882/2004, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC, and Council Decision 92/438/EEC (Regulation on official controls) (Text with EEA relevance) (OJ L 95, 7.04.2017, pp. 1–142; hereinafter: Regulation 2017/625); Commission Implementing Regulation (EU) 2019/627 of 15 March 2019 laying down uniform practical arrangements for the performance of official controls on products of animal origin intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council and amending Commission Regulation (EC) No. 2074/2005 as regards official controls (Text with EEA relevance) C/2019/13 (OJ L 131, 17.05.2019, pp. 51–100; hereinafter: Regulation 2019/627); Commission Implementing Regulation (EU) 2015/1375 of 10 August 2015 laying down specific rules on official controls for trichinella (*Trichinella*) in meat (consolidated text) (Text with EEA relevance) (OJ L 212, 11.08.2015, pp. 7–34; hereinafter: Regulation 2015/1375); Commission Implementing Regulation (EU) 2021/405 of 24 March 2021 establishing the lists of third countries or regions thereof from which the introduction into the Union of certain animals and goods intended for human consumption is permitted in accordance with Regulation (EU) 2017/625 of the European Parliament and

Food businesses importing products of animal origin from third countries are required to ensure that imports take place only if: the third country is on the list of countries from which imports of the product in question are permitted or the establishment shipping the product, and where the product was received or prepared, is on the list of establishments from which imports are permitted where applicable unless derogations (e.g., prohibitions due to violations of the law) are in place. In the case of fresh meat, minced meat, meat products, meat products and mechanically separated meat, if the product in question was made from meat obtained in slaughterhouses and cutting plants its import is permitted when these establishments are included in the list, or if they are among the approved establishments in the EU, and in the case of bivalve molluscs, echinoderms, tunicates and marine gastropods, if the relevant production area is on the relevant list.¹⁹

It is worth mentioning at this point that various EU lists of third countries from which meat imports are permitted already include South American countries, and therefore although those in the Mercosur group. For example, consignments of fresh meat (save for minced meat) and raw meat products from farmed solipeds intended for human consumption can only enter the EU if they originate from a country listed in Annex I to Regulation 2021/405.

of the Council (Text with EEA relevance) C/2021/1810 (OJ L 114, 31.03.2021, pp. 118–150; hereinafter: Regulation 2021/405).

¹⁹ Article 6 of Regulation 853/2004; Commission Implementing Regulation (EU) 2021/632 of 13 April 2021 laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards lists of animals, products of animal origin, biological material, animal by-products and derived products, composite products, and hay and straw subject to official controls at border inspection posts and repealing Commission Implementing Regulation (EU) 2019/2007 and Commission Decision 2007/275/EC (Text with EEA relevance) C/2021/1820 (OJ L 132, 19.04.2021, pp. 24–62; hereinafter: Regulation 2021/632); Commission Delegated Regulation (EU) 2019/624 of 8 February 2019 concerning specific rules for the performance of official controls on meat production and production and transition areas for live bivalve molluscs pursuant to Regulation (EU) 2017/625 of the European Parliament and of the Council (Text with EEA relevance) C/2019/10 (OJ L 131, 17.05.2019, pp. 1–17; hereinafter: Regulation 2019/624); Commission Delegated Regulation (EU) 2021/630 of February 16, 2021 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of goods exempt from official controls at border inspection posts and amending Commission Decision 2007/275/EC (Text with EEA relevance) C/2021/899 (OJ L 132, 19.04.2021, pp. 17–22; hereinafter: Regulation 2021/630); Commission Implementing Regulation (EU) 2019/2130 of November 25, 2019, laying down detailed rules on actions to be carried out during and after documentary, identity and physical checks for animals and goods subject to official controls at border inspection posts (Text with EEA relevance) (OJ L 321, 12.12.2019, pp. 128–138; hereinafter: Regulation 2019/2130).

This annex includes a list of countries from which such consignments are permitted. Argentina, Brazil and Uruguay are on that list.

Imported products must comply with legal requirements, including the import conditions set out in the regulations on import controls of products of animal origin, as well as formal requirements, particularly with regard to supplying imported products with the necessary documentation.²⁰ For example, the introduction into the EU of animals, biological material and products of animal origin from third countries and territories requires compliance with the conditions set forth in Part V of Regulation 2016/429.

It should also be noted that under Article 269 of Regulation 2016/429 Member States have the authority to apply additional or stricter measures in their territories than those laid down in the aforementioned regulation. This rights concerns, among other things, certain animal health obligations such as registration, approval, record-keeping and registries, and the traceability requirements for maintained terrestrial animals and biological material.

In general, the principle is that official controls of animals and goods entering the Union are organized on the basis of risk assessment. In particular, the import of products into the EU is subject to Regulation 2017/625. The Regulation specifies various types of inspections, including those at border inspection posts. And in the case of suspected non-compliance of shipments of animals and goods from a certain category, official inspections are mandatory to confirm or eliminate such suspicion. Competent authorities must make a so-called “official detention” of a non-compliant consignment of animals or goods entering the EU and refuse entry.

Whenever there are reasonable grounds to suspect that animals or products originating in the EU or introduced from outside the EU may pose a risk, the competent authority is required to take appropriate steps to inform the public of the nature of that risk and the measures that have been or will be introduced to prevent or control that risk, taking into account the nature, seriousness and magnitude of the risk and the public interest in obtaining such information. Moreover, the Commission’s experts are authorized to carry out

²⁰ Commission Implementing Regulation (EU) 2020/2235 of December 16, 2020. laying down rules for the application of Regulations (EU) 2016/429 and (EU) 2017/625 of the European Parliament and of the Council as regards model animal health certificates, model official certificates and model animal health certificates/official certificates for the introduction into and movement within the Union of consignments of certain categories of animals and commodities and official certification concerning such certificates, and repealing Regulation (EC) No. 599/2004, Implementing Regulations (EU) No. 636/2014 and (EU) 2019/628, Directive 98/68/EC and Decisions 2000/572/EC, 2003/779/EC and 2007/240/EC (Text with EEA relevance) (OJ L 442, 30.12.2020, pp. 1–409; hereinafter: Regulation 2020/2235).

on-site inspections in third countries to verify compliance or equivalence requirements of third country legislation and systems, including official certification and issuance of official certificates, third country inspection system, third country legislation, organization of third country competent authorities, their competence and independence, supervision.

The on-site audit performed in Brazil in 2024 included an evaluation of official controls on the use of pharmacologically active substances, pesticides and contaminants in animals and animal products, and an assessment of the reliability of guarantees that Brazil offered.²¹ In 2023 Brazil exported beef, poultry meat and honey to the EU. Although the audit confirmed, in principle, the validity and comparability of Brazilian legislation with that of the EU on the approval of veterinary medicinal products and the ban on growth hormones and beta-agonists for bovine growth promotion, there were differences found between the EU and Brazilian systems with regard to the storage of veterinary prescriptions and the lack of a legal requirement to keep treatment records. On the other hand, with “regard to the use of estradiol 17 β in cattle for therapeutic and zootechnical purposes, the reliability of claims that estradiol 17 β was not used in cattle when meat was destined for exports to the EU was not confirmed.”²²

2. Safety standards of food of animal origin in light of the EU-Mercosur agreement

Mercosur countries and the EU are bound by agreements concluded within the World Trade Organization (WTO), including the Sanitary and Phytosanitary Agreement (SPS), the World Trade Organization Agreement on Technical Barriers to Trade (TBT). Pursuant to the hierarchy of these regulations, the agreement between the EU and Mercosur occupies a lower place, and other “acts” such as the *Codex Alimentarius* should come after.

One of the problems encountered in practice in international trade is the varying degree of harmonization of technical, sanitary regulations, which can also result in different approaches to SPS and TBT. In the case of SPS, the manner in which the precautionary principle or principle of equivalence is applied is also of importance. Under both, the SPS and TBT agreements,

²¹ *Brazylijska wołowina z hormonami wjeżdża do UE! Co robi Komisja?*, <https://www.topagrar.pl/bydlo/brazylijska-wolowina-z-hormonami-wjezdza-do-ue-co-zrobi-komisa-2521756> [accessed on 12.04.2025].

²² *Ibidem*.

countries are obliged to properly notify of new SPS standards and to establish an information desk. Inspection and control procedures should not discriminate against imported goods, neither should they be excessively time-consuming and too costly.²³

As rightly argued, the importance of the WTO is declining in trade relations, while regional agreements and ties, including bilateral agreements, are now playing an increasingly important role.²⁴ This is particularly relevant in view of the trend toward the rise of “regulatory protectionism” in modern international trade. To a certain extent, this protectionism refers precisely to technical and phytosanitary barriers²⁵ which impede trade relations. As a rule, international agreements are concluded seek to remove these restrictions. To a large extent, too, the EU-Mercosur agreement serves to eliminate or reduce tariffs, or to establish the very rules for assessing food safety standards, so that trade between the EU and Mercosur is liberalized in the long run.

Although the regulatory protectionism in the sphere of strict and complex sanitary and phytosanitary requirements continues to exist, sometimes it may be because of the inability of three organizations: the *Codex Alimentarius*, the World Organization for Animal Health, and the Organizations of International Plant Protection Convention, as well as due to the development of biotechnology, new food additives, or pesticides.²⁶

Reconciling the differing EU and South American food safety regulations in the Mercosur trade agreement could not have been an easy task. Needless to say, even an attempt to compare standards encounters obstacles in fundamental issues. The term “seguridad alimentaria” as used in Latin America refers to both food safety and food security,²⁷ while in Europe their meaning is different. Also the legal orders in individual Mercosur countries differ from one another and to study them requires knowledge of social and economic relations.

This is because the food legislation of Mercosur countries is deeply embedded in social realities linked to local living conditions of their population, sometimes indigenous, or family nutrition. The approach to food law itself is already unusual, but the Latin American model of food regulation is similar

²³ Z.W. Puślecki, *Światowa Organizacja Handlu i Unia Europejska wobec wyzwań we współczesnym biznesie międzynarodowym*, Warszawa 2021, p. 29.

²⁴ Ibidem, pp. 13, 21.

²⁵ Ibidem.

²⁶ L. Gonzáles Vaqué, H.A. Muñoz Ureña, *Food Legislation in Latin America*, in: L. Costato, F. Albisinni, T. Georgopoulos (eds.), *European and global food law*, Milano 2025, p. 119.

²⁷ Ibidem, p. 110.

to that of the EU's for historical reasons (colonialism).²⁸ Interestingly, the development of food regulation in Mercosur has been influenced by the WTO Agreements and the SPS and TBT, or, among other things, the adoption of EU Regulation 178/2002. By Decision No. 06/96 of 17 December 1996, it was decided to apply sanitary and phytosanitary requirements, and in 2000, by Decision No. 58/00, to apply technical requirements, incorporating them into the Mercosur legal framework.²⁹ The problem, however, is that in Mercosur countries the degree of regional harmonization is still much lower than in the EU, and there are also differences in the implementation of regional alignment of SPS measures within Mercosur, where the principle of mutual recognition applies.³⁰

The EU-Mercosur agreement relates in part to sanitary and phytosanitary (SPS) measures. The parties intention was that the Agreement establishes mechanisms to strengthen and facilitate trade while preserving the safety of EU consumers. Its provisions are expected to ensure predictability and transparency, as well as simplified administrative procedures for European exporters and relevant member state authorities. Above all, it is to maintain strict sanitary and phytosanitary rules that will protect EU consumers (ensure food safety, animal health and plant health) and standards applied by the EU whenever it imports agricultural or fish products. EU standards can therefore not be relaxed in any way by the EU's agreement with Mercosur. The EU's SPS standards are to remain unchanged. The EU retains the right to set maximum residue levels for pesticides, veterinary drugs or contaminants.

This is the starting point for discussions on the safety standard of food of animal origin that would be imported under the EU-Mercosur agreement. In the elements of the EU-Mercosur agreement, there is an important agreement on common tools for the conformity assessment process (point 7), the purpose of which is to eliminate technical barriers to trade and thus ensure a certain harmonization of standards. In this regard, a closed list of international standard-setting organizations was adopted, with a focus on the International Organization for Standardization (ISO), the International Electrotechnical Organization (IEC), the International Telecommunications Union (ITU) and the *Codex Alimentarius*. This solution corresponds to the EU's approach to international standards and gives the opportunity to reach out to mutually recognized solutions in conformity assessment. From the point of view of food safety of animal origin, the appropriate solutions will

²⁸ Ibidem, p. 112.

²⁹ Ibidem, p. 115.

³⁰ L. Ghiotto, J. Echaide, *Study analysis...*, section 3.4.1, p. 39.

be quality management systems under which HACCP is applied in companies, or good practices that are widely used in the EU (ISO 22000 standard).

In particular, the EU-Mercosur contractual documents (Article 6(1)) provide that “Products exported from the territory of a Party must meet the applicable sanitary and phytosanitary requirements of the importing Party.” Article 7(1) introduces a principle corresponding to EU regulations that “The importing Party may require approval of animal establishments, animal products, animal products and animal by-products.” In turn, Article 7(2) of the SPS Chapter, states that “Approval shall be granted without prior inspection of individual establishments by the importing Party upon recognition by the importing Party of the official inspection system of the competent authority of the exporting Party and authorization to import the products in question, and if the exporting Party provides sufficient assurance that they meet the sanitary requirements of the importing Party.”

Therefore, in this regard, the EU’s systemic assessment of the food importing country’s requirements is crucial. EU regulation gives EU experts the authority to conduct an *in loco* check of the entire food inspection system, thus visiting slaughterhouses, processing plants, etc.

The EU-Mercosur Agreement introduces certain possibilities, where appropriate, to simplify inspections and verifications and reduce the frequency of import checks carried out by the importing Party on the exporting Party’s products, taking into account:

- the existing risks, inspections carried out by manufacturers and/or importers approved by the competent authorities of the Parties,
- guarantees provided by the competent authority of the exporting country,
- international guidelines, standards and recommendations of the World Organization for Animal Health (OIE) or the International Plant Protection Convention (FAO/IPPC) and the *Codex Alimentarius*.

Each Party may use other criteria to simplify inspections if they do not undermine the mutually agreed criteria. This possibility, however, requires diligence in assessing the listed factors affecting the level of food safety and is an area that should be given more attention in practice.

Regarding the point on the Recognition of Animal and Plant Pest Health and Regional Conditions according to the EU-Mercosur Agreement documents, “The Parties recognize the concept of zoning and compartmentalization, including areas free of pests or diseases and areas with low incidence of pests or diseases, and agree to apply it in trade between the Parties, in accordance with the WTO SPS Agreement, including the Guidelines for

the Further Practical Implementation of Article 6 of that SPS Agreement (Decision G/SPS/48 of the WTO/SPS Committee) and relevant recommendations, standards and guidelines of the OIE or IPPC.” At all times, each party retains the right to reject a product (Article 7, part A, para. 5 of the SPS Chapter). According to the said Guidelines, importing members should take into account all relevant knowledge and previous experience with the exporting member’s authorities. At the request of the Exporting Member, the Importing Member should provide information on the stage of the Exporting Member’s application as part of its evaluation process (section 1.2.2, para. 6 of the Guidelines).

Thus, it can be seen that “free” trade between the parties should depend on reliability and diligence based on knowledge and experience in importing from a country, which can determine the building of trust between the parties in the level of food safety provided.

Allegations have been made in the literature that “the SPS chapter of the EU-Mercosur agreement continues to ignore the EU consumer-friendly precautionary principle.”³¹ However, this position seems to go too far. At no point in the EU-Mercosur agreement is the application of the precautionary principle excluded. Since the EU retains the right to reject a product under the terms of the agreement, it should have all the more right to invoke the precautionary principle. The question left to practice is how this principle will be applied in light of the parties’ SPS arrangements.

Regardless of the provisions of the future (but uncertain) EU-Mercosur agreement, among other things, imports of products from these countries have been subjected to the new legal requirements of Regulation 2023/1115, called EUDR.³² Large companies will be subject to compliance with the obligations of this Regulation as of 30 December 2025, and micro and small businesses will have time until 30 June 2026 to do so. The goal of this legislative act is to minimize the EU’s impact on deforestation and forest degradation worldwide and reduce this process globally. This impact is to be minimized through verification of products consumed in the EU.³³ The EUDR contains

³¹ L. Ghiotto, J. Echaide, *Study analysis...*, p. 54.

³² Regulation (EU) 2023/1115 of the European Parliament and of the Council of May 31, 2023 on the making available on the Union market and exports from the Union of certain goods and products related to deforestation and forest degradation and repealing Regulation (EU) No. 995/2010 (Text with EEA relevance) PE/82/2022/REV/1 (OJ L 150, 9.06.2023, pp. 206–247; hereinafter: Regulation 2023/1115 or the EUDR).

³³ K. Leskiewicz, *Il contributo dell’Unione Europea alla lotta contro la deforestazione globale Aspetti legali selezionati*, “Revista Iberoamericana de Derecho Agrario” 2025, no. 21.

a list of goods that have been determined as leading to deforestation and forest degradation.

According to the recitals of the EUDR regulation, the following are the largest contributors to deforestation caused by their consumption in the EU according to scientific research results: palm oil (34.0%), soy (32.8%), timber (8.6%), cocoa (7.5%), coffee (7.0%), cattle (5.0%) and rubber (3.4%). Therefore, when a non-EU entity makes an EUDR product available on the EU market (i.e. provides a product for distribution, consumption or use in the EU in the course of a commercial activity, whether for payment or not), it must establish and implement relevant due diligence system that should include three elements: information requirements; risk assessment; and risk mitigation measures, supplemented by reporting obligations. It must provide information on the sources and suppliers of the product being marketed. Therefore, with this in mind, the EUDR may potentially be seen as creating new requirements. Even though these requirements will certainly not facilitate trade, for the EU they will be justified to be imposed for the reasons stated above.

Conclusions

By relating the provisions of the EU-Mercosur agreement presented by the European Commission in its non-legal version to the EU's regulation of the safety of food of animal origin, it can be concluded that the European Union retains the authority to verify the safety standard of food of animal origin that would be imported from Mercosur countries under the agreement. This is to be achieved owing to official inspection of food conducted, including the possibility of on-site inspection in the exporting country. Importantly, the Union retains the right to reject a product that does not meet the requirements of the importing country.

The EU-Mercosur agreement has the potential to remove technical barriers to the trade between parties, provided an adequate degree of international harmonization of sanitary and phytosanitary standards has been reached. The compliance instruments, as for example the due diligence system under the EUDR for certain products and particularly for assessing compliance of all products covered by the EU-Mercosur Agreement, are a potential guarantor of common and uniform consumer health protection, while ISO 22000 standards for quality management systems or *Codex Alimentarius* standards may constitute methods that the Agreement provides for eliminating technical barriers to trade without compromising product safety.

In pursuing the objective of this work, it should be noted that food of animal origin imported into the European Union would have to meet the analogous safety requirements as food produced and marketed within the Union.

The EU-Mercosur Agreement is a positive step towards eliminating regulatory protectionism and standardization, creating legal opportunities to ensure food safety, particularly with regard to products of animal origin. Much will depend on how official food control mechanisms are applied in practice. However, even if food of animal origin were safe for consumers, the question remains as to the profitability of food imports for the EU and Poland.

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