

BOSNA I HERCEGOVINA
Agencija za nadzor nad tržištem



БОСНА И ХЕРЦЕГОВИНА
Агенција за надзор над тржиштем

BOSNIA AND HERZEGOVINA
Market Surveillance Agency

**THE REPORT FOR 10th MEETING OF CEFTA MEMBER STATES –
CONFORMITY ASSESSMENT AND MARKET SURVEILLANCE**

**Present state and perspectives of Market Surveillance
in Bosnia and Herzegovina**

Zagreb, 06. december 2007.

Present state

Inspection surveillance in BiH, for all fields, is being carried out in entities and Brčko District BiH. Reorganization of inspections has been carried out through adopting the Law on Inspections of RS (Official Journal of RS No. 113/05) and the Law on Inspections of Federation BiH (Official Journal of FBiH No. 69/05), by extracting inspections from competent ministries and organizing them within Administration for inspection activities – Inspectorates, which are directly responsible to entities' Governments, and Government of Brčko District BiH as well.

Market inspection is one of 10 inspections under the Inspectorate, which carries out surveillance in the area of movement of goods and services, surveillance of implementation of regulations relating,

among other things, to carrying out: commercial activities, catering and entrepreneurship, consumer protection, labeling products, marking and packaging, and essential requirements regarding quality and safety of products.

Market inspection of RS is organized on two levels within entity, under 6 regional centers and under local administration units (municipality level).

Market inspection of FBiH is organized, under the Inspectorate, on the FBiH level (foreign trade, quality inspection of imported and local products, trademark, and brand) and on the canton levels (internal movement), which are directly responsible to cantons' governments.

Bosnia and Herzegovina adopted the Law on Technical Requirements for products and conformity assessment, the Law on General Product Safety and the Law on Market Surveillance in Bosnia and Herzegovina (OJ of BiH No. 45/04).

By adopting these laws, BiH created legal preconditions for transposition of New Approach and Global Approach Directives, conformity assessment, and preconditions for establishing product safety requirements which are placed on market, and organizing and functioning of market surveillance in accordance with requirements of New Approach Directives and EU practice.

The Law on General Product Safety (which transposed Directive on General Product Safety 2001/95/EC) regulate general safety of product placed on the market, safety assumption, obligations of producers and distributors and penal provisions for placing unsafe products on the market and for unfulfilling of following obligations: informing the consumers and undertaking appropriate measures in order to enable them to avoid risk, maintain the documentation for monitoring of product origin and submit the documentation upon the request of competent authority, inform the competent authorities on product safety risk which is placed on the market and cooperation with competent authorities.

Preparation of bylaw – the Rulebook, which defines the form and contents of notification to competent authorities that producers and distributors are obliged to deliver when (taking into account information they have and professional standards) they know or should know that a product they placed on market poses risk which is incompatible with requirements regarding general product safety, is underway. Concerning the obligations of notifying

established by the Law on General Product Safety, the Rulebook specifies to which competent authority information should be submitted, the contents of the information about the risk and measures undertaken to prevent the risk, in accordance with the EC Decision which provides guidelines for notification to competent authorities of the Member States. This bylaw should be adopted by the end of this year.

In order to strengthen the legal and administrative capacity and ensure an effective alignment of BiH market surveillance system with those of the EU, BiH adopted the **Law on market surveillance** which established Market surveillance Agency of Bosnia and Herzegovina. Furthermore, Law on Market Surveillance BiH transposed Directive on General Product Safety 2001/95/EC.

The Law shall regulate the surveillance of products placed on the market of Bosnia and Herzegovina, determine the general principles and establish a market surveillance system, its organization and functioning, as well as the duties and responsibilities of producers and distributors within the market surveillance system.

Market surveillance shall be conducted by the competent authorities by monitoring the conformity of products placed on the market or put into service with the prescribed product safety requirements, and undertaking, when necessary, appropriate measures so that products are brought in line with those requirements, in order to ensure a high level of protection to the health and safety of humans, animals, plants, property, and the environment.

This Law shall apply to all products for which the safety requirements are given in the Law on General Product Safety or by specific technical requirements.

As general principles of market surveillance, in accordance with the Law, are: precaution and proportionality, cooperation and transparency.

Under the law proposals market surveillance system is comprised of :

- The Market Surveillance Agency of Bosnia and Herzegovina
- Inspection and other administrative bodies of the Federation of Bosnia and Herzegovina, the Republika Srpska, and District Brčko of Bosnia and Herzegovina authorized to carry out inspections and other activities related to product control on the market of Bosnia and Herzegovina

The Agency's mission shall consist of the following:

- Ensuring a systematic, harmonized and efficient market surveillance system in Bosnia and Herzegovina.
- Developing international cooperation in the area of market surveillance, including integration of Bosnia and Herzegovina into institutional and administrative structures of international cooperation.
- Promoting and developing scientific and professional knowledge, insights and methodology and their application in formulating and implementing market surveillance policies.
- Promoting and developing professional capacities in all market surveillance structures.
- Affirming the principles of independence, impartiality and non-discrimination in market surveillance.

- Raising the level of safety of humans and animals and the protection of the environment from dangerous products.

Responsibilities of the Agency

With a view to implementing the Law, the Agency is responsible, inter alia:

- a) to coordinate and harmonize the activities of the Market Surveillance System in Bosnia and Herzegovina;
- b) to ensure uniform enforcement of the product safety legislation on the territory of Bosnia and Herzegovina including interpreting the regulations on product safety and issuing the guidelines for their implementation;
- c) to participate in the preparation and drafting of all regulations on product safety whether adopted on the entity or state level, ensuring the application of the current scientific and professional knowledge and good practices, particularly contemporary experiences and legal practices of the EU Member States;
- d) to participate, encourage, and aid the development of professional capacities in all market surveillance structures;
- e) to provide scientific and technical support to all competent bodies in the areas within its mission regarding issues related to market surveillance.
- f) to promote capacity building in the area of certification and testing and demonstration of competence through accreditation;
- g) to ensure uniform procedures for acting on consumer complaints regarding product safety or performance of the competent bodies, their centralized record keeping, following the decision and informing the public of the availability of such a mechanism, in order to offer equal protection to all citizens throughout the market of Bosnia and Herzegovina;
- h) to establish efficient formal and/or informal mechanisms for mutual cooperation of all actors in the market surveillance system.
- i) to continuously inform the public and all interested parties of the activities in the market surveillance;
- j) to carry out international cooperation in the field of market surveillance, especially the cooperation with the European Union and Member States authorities as well as the World Trade Organization, to follow and implement the responsibilities of Bosnia and Herzegovina arising from that cooperation and to initiate legislative, administrative and institutional measures necessary for the cooperation;
- k) to periodically inform the authorities of Bosnia and Herzegovina and its Entities on the situation in the area of market surveillance.

Special responsibilities of the Market Surveillance Agency of Bosnia and Herzegovina are to timely communicate risks and information on dangerous products to the public and all interested parties in Bosnia and Herzegovina and abroad.

The Agency is an independent administrative unit and is considered a legal entity and has all the rights and obligations set forth in the Law.

The Agency is financed out of the budget of the institutions of Bosnia and Herzegovina, and directly responsible to the Council of Ministers of Bosnia and Herzegovina. Agency is managed by the Director in cooperation with the Deputy Director and Assistant Directors in accordance with the Law, the internal Rulebook of the Agency and other legal acts.

With the view to implementing this Law **Inspection bodies shall be authorized**, where appropriate, to take the following measures:

- (a) for any product:*
 - to organize appropriate checks on its safety properties up to the final stage of use or consumption;
 - to require all necessary information from the producers and distributors;
 - to take samples of products and subjects them to safety checks;
- (b) for any product that could pose risk in certain conditions:*
 - to require that it be marked with suitable, clearly worded and easily comprehensible warnings, in the official languages of Bosnia and Herzegovina, on the risk it may present;
 - to make its marketing subject to prior conditions so as to make it safe;
- (c) for any product that could pose risk for certain persons:*
 - to order that they be given warning of the risk in good time and in an appropriate form, including the publication of special warnings;
- (d) for any product that could be dangerous:*
 - for the period needed for the various safety evaluations, checks and controls, temporarily to ban its supply, the offer to supply it or its display;
- (e) for any dangerous product:*
 - to ban its marketing and introduce the accompanying measures required to ensure the ban is complied with;
- (f) for any dangerous product already on the market:*
 - to order or organize its actual and immediate withdrawal, and alert consumers to the risk its presents;
 - to order or coordinate or, if appropriate, to organize together with producers and distributors its recall from consumers and its destruction in suitable conditions.

Agency was established in September 2006. Rulebook on internal organization and systematization systemizes jobs and tasks in the area of technical industrial products, in accordance with products and product groups. In total, 27 employees were foreseen, where 22 are performing a function of primary activity of the Agency, with degrees in technical and legal professions and foreign languages knowledge. At the moment, Agency employs 9 civil servants, and the procedure of employing other 3 civil servants is underway, so there will be a total of 12 employees. The filling of vacancies will be carried out following the realization of The Program of transposing New Approach and Global Approach Directives into legislative of BIH.

Agency participates in activities of working groups for transposition of LVD and Machinery safety directive, EMC and Lifts Directives, and it will take part in activities of all working groups for transposition of NADs.

Agency also participates in activities of the working group in drafting the Rulebook for the notification of unsafe products placed on the market to the competent authorities by producers and distributors.

So far, activities of product safety surveillance were performed with full cooperation of inspection authorities of entities and Brčko District BiH and the Agency, mainly regarding voluntary recall of products by producers and distributors, and partially regarding products that are recalled from the EU market due to safety reasons.

Cooperation and capacity building

Organizing inspection under Inspectorates in entities allows better cooperation, more efficient work and using potentials within Inspectorate, as well as preconditions for coordination of market surveillance activities in BiH. So far, cooperation between inspection authorities of entities, Brčko District and Market Surveillance Agency BiH has shown through activities of recalling unsafe products from the market, exchanging information and unified procedures.

Market Surveillance Agency BiH cooperates with institutions competent in areas which affect market surveillance activities and consumer protection, first of all with Institute for Standardization of BiH regarding standards which are transposed as BiH standards. Representatives of Agency will take part in activities of technical committees established within Institute.

Agency cooperates with MOFTER regarding transposition of NADs and adopting bylaws in the area of product safety, and through Council for consumer protection established within MOFTER by the Law on Consumer Protection in BiH.

Agency is preparing ground for creating a market surveillance strategy. IT system in the Inspectorate of RS is also underway, and it will allow connection between all interested parties and efficient exchange of information.

In order to establish organization and efficient functioning of market surveillance in accordance with practice of EU, it is necessary to organize training for Agency and Inspectorate staff. So far, we organized some minor training programs, such as:

- TAIEX round table on “organization of market surveillance based on GPSD” took place in November 2007, and it engaged an expert from Slovenia;
- Implementation of Technical Regulation.

For the upcoming period, assistance program was nominated and approved under IPA 2007 – Safety infrastructure (where market surveillance is the third component of the project). The project should last for 20 months and provide assistance for establishing, gradual implementation and functioning of market surveillance in accordance with regulations and good practice of EU.

Director
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