

solicitors' and legal advisors' chambers. Visiting Professor in Toraygyrov State University in Pavlodar, Kazakhstan (2013) and in Zansugurov State University in Taldy Korgan, Kazakhstan (2014).

² G. B. Achmedżanowa: Sud bijew i institut prisjagi w obycznom prawie Kazachow, Ministerstwo obrazowania i nauki Rzespubliki Kazachstan, Pawłodarskij gosudarstwiennyj uniwersitet im. S.Torajgyrowa, Pawłodar 2010, p. 4–5, 7 and 118–151. Also see: T. M. Kultejejew: Ugołownoje obycznoje prawo Kazachow (S momenta prisojedinenija Kazachstana k Rossii do ustanowlenija sowietskoj własci), Izdatielstwo AN KazSSR, Alma-Ata 1995, p. 72.

³ I. Stonimska–Szkutowicz: Przemiany społeczne w Kazachstanie, [in:] W. Baluk: Kazachstan. Polityka wewnętrzna i zagraniczna, Wrocław 2009, p. 75 and T. Bodio, K. A. Wojtaszczyk (eds.): Kazachstan. Historia – społeczeństwo – polityka, Warszawa 2000, p. 33.

⁴ B. Banaszak: Prawa jednostki i systemy ich ochrony, Kolonia Limited, Wrocław 1995, p. 39.

⁵ Ibid

⁶ In Kazakhstan there are distinguished three zhuzes: Old, Middle, Young. An expression relating to zhuz and deriving from the Mongolian tradition is the term “orda”.

⁷ Cf. J. Szymanek: Ustrój konstytucyjny Kazachstanu, Dom Wydawniczy ELIPSA, Warszawa 2013, p. 101 and after him: N. Amrekulow: Żuzy w socialno-politiczeskoj żizni Kazachstana, Centralnaja Azja i Kawkaz No. 3/2000.

⁸ A. Abdakimow: Istorija Kazachstanu, Almaty 1994, p. 21; I. Stonimska – Szkutowicz: op.cit., p. 76; Also see: A. Wierzbicki: Etnokratyzm w strukturach władzy politycznej państw Azji Centralnej, [in:] J. Zaleśny (ed.): Zagadnienia ustrojowe państw poradzieckich, Dom Wydawniczy ELIPSA, Warszawa 2010, p. 9 and following.

⁹ A. Bisztyga: Zachodnia a islamska koncepcja praw jednostki, Przegląd Prawa Konstytucyjnego 2013/No. 1 (13), Wydawnictwo Adam Marszałek, p. 85

¹⁰ This question is presented by T. Bodio, T. Mołdawa: Konstytucje państw Azji Centralnej. Tradycje i współczesność, Instytut Nauk Politycznych Uniwersytetu Warszawskiego, Warszawa 2007, s. 15 oraz s. 37–63.

¹¹ Cf. T. Bodio: Badania nad teorią i metodologią transformacji oraz elit politycznych w Azji Centralnej, [in:] T. Bodio: Przywództwo, elity i transformacje w krajach WNP. Problemy metodologii badań, Vol. 1, Zakład Badań Wschodnich Instytutu Nauk Politycznych przy współpracy z Międzynarodową Pracownią Badań nad Rosją i Państwami Poradzieckimi Wydziału Dziennikarstwa i Nauk Politycznych Uniwersytetu Warszawskiego, Warszawa 2010, p. 444.

¹² Cf. J. Szymanek: op.cit., p. 20–22.

¹³ In the preamble of the binding Constitution of the Republic of Kazakhstan, in spite of the fact that it is a short, concise form we encounter the phrase “the people of Kazakhstan, united by a common historic fate.”

¹⁴ Konstytucja Rzespubliki Kazachstan, prinjata na riepublikanskom riefierendumie 30 awgusta 1995 goda (Wiedomosti Parlamenta Rzespubliki Kazachstan, 1996 g., No 4, statia 217), c izmienenijami i dopolnienijami, wniesiennymi Zakonom Rzespubliki Kazachstan ot 7 oktjabrja 1998 goda (Wiedomosti Parlamenta Rzespubliki Kazachstan, 1998 g., No 20, statia 245), z izmienenijami i dopolnienijami, wniesiennymi Zakonom Rzespubliki Kazachstan ot 21 maja 2007 goda (Wiedomosti Parlamenta Rzespubliki Kazachstan, 2007 g., No 10, p. 68).

¹⁵ J. Szymanek: op.cit., p. 71.

¹⁶ Cf. A. Czajowski: Republika Kazachstanu, [in:] W. Baluk and A. Czajowski (eds.): Ustroje polityczne krajów Wspólnoty Niepodległych Państw, Wydawnictwo Uniwersytetu Wrocławskiego, Wrocław 2007, p. 234.

¹⁷ R. Badowski: Polscy piewcy Kazachstanu, Wydawnictwo z okazji II Polskiej Wystawy Narodowej w Kazachstanie, Poland EXPO Kazachstan 2006, Wydawnictwo Bernardinum 2006, p. 81–82.

¹⁸ Ibidem, p. 84–86.

Summary

Andrzej Bisztyga. General characteristics of the constitutional regulation of the individual freedoms and rights in Kazakhstan.

The evolving shape of Kazakh constitutionalism has been affected by various determinants, i.e. both the national legal tradition and the outer factors in the form of Asian, Islamic, Russian and Soviet legal traditions. The Author describes them and outlines the catalogue of individual rights and freedoms regulated under the Constitution of the Republic of Kazakhstan, adopted by way of referendum on 30 August 1995. This catalogue is not identical with the European constitutional catalogues of individual rights and freedoms, it is, however, possible to discuss its content-related correspondence between them.

Key words: Constitution of Kazakhstan, constitutionalism of Kazakhstan, individual rights in the Constitution of Kazakhstan.

JUSTYNA WĘGRZYN

*Justyna Węgrzyn, Faculty of Law and Administration
University of Zielona Gora*

SAFETY OF THE CHILD AS THE CONSUMER ON THE MARKET OF TOYS IN THE POLISH LAW

1. Introduction

The consumer as the weakest participant in the business trading is exposed to many inconveniences appearing on the market. So it doesn't surprise that the consumer protection was and is still a subject of the particular interest¹. Action that was taken for this entity is a multistage process which started on the plain of Community, and at present is being continued by the European Union (farther: the EU)². The reflection of actions are not only changes,

which took place in the primary law, but also accepted programmes and plans of the consumer protection constituting the indicator for further actions in this area are reflecting it. The realization of accepted plans and programmes of assumptions became / are mostly EU secondary acts, specifically the number of regulations and consumer directives which have been implemented and are continued to be implemented by the Member States to Domestic Legal Order.

Referring to the definition of the consumer we will notice that both at the EU and domestic level there is no uniform definition of the given term because legal documents from the scope of the consumer law define it according to its own needs. For the purposes of this publication I will consider the natural person that uses the given thing in order to feed its needs. Accepting such a definition will allow to regard not only adults as the consumer but also children.

Identifying the child as the consumer seems to be legitimate especially when the specificity of the issue “usually touches two aspects: advertisement³ and the safety of products and services”⁴, and especially the food and the toys. In this case it is not important who directly purchases the goods but it is essential who is the consumer or the user as it is in the case of the food, toys or cosmetics. In this meaning the child becomes a consumer of various goods, although it does not conclude the agreement with the contractor, therefore not without the cause in the EU, and in consequence in EU Member States, the special emphasis is put on legislative actions among areas such as the safety of toys.

Currently the most important act of legislation devoted to the discussed issue is Directive 2009/48/EC of 18 June 2009⁵, which took effect on 20 July 2011., replacing Directive 88/378/EEC of 3 May 1988. on the approximation of the laws of EU Member States concerning the safety of toys⁶. Implementation of this ordinance in the Polish legal system is the Regulation of the Minister of Economy of 5 April 2011. on essential requirements for toys (farther: rwz or regulation MG)⁷, which should be considered together with the Act of 30 August 2002. Conformity Assessment System⁸ (farther: USOZ).

In this publication, in order to show how to protect child’s safety as the consumer I will refer to the requirements that must be met in the toy industry by manufacturers and to the system of information on dangerous products that functions at EU and national level. Moreover I will present reports of the national authority which controls the toys.

2. The domestic regulations concerning the safety of toys

2.1. Definition of the toy

According to the mentioned regulation MG a toy is a product designed or intended to be used for fun and the article which due to its features or appearance can be used for fun by children under age of 14⁹. An example of a product that can be used to play even though it also has another function is a backpack in the shape of the characters from the cartoons (Mickey Mouse).

As it turns out not only age restrictions but also the weight of the child are taken into consideration while classifying the product in the category of toys. It occurs in the case of roller skates and skateboards which are considered to be toys if they are intended for children under 20 kg of weight. Exceeding the weight causes that those products are defined to be the sports equipment¹⁰.

The height is the crucial standard in defining the products to be used for fun. An example is bicycle about maximum saddle height of more than 435 mm, measured as the vertical distance from the ground to the top of the seat surface, with the seat in a horizontal position and with the seat pillar set to the minimum insertion mark¹¹. In addition, regulation MG includes the list of products that are not toys despite mentioned definition of the toy eg. Puzzle consisting of more than 500 pieces, vehicles electric motor designed to ride on the roads, sidewalks or bike lanes.

Evaluation of the safety of toys before introducing them into the trade

Ensuring a high level of safety of toys has a direct impact on the safety and health of children. It should have reflection in practice so numerous requirements were put on the producer in the scope:

– physical and mechanical properties of toys¹² – requirements relate to toys, their parts and empowerment were mechanically strong and resistant to the pressure to which they are subjected during play; edges, occurring parts, wires, cables and mounting on toys must be designed and produced in such a way to avoid the injury, asphyxiations of the child by cutting off the air supply as a result of external airway obstruction by the mouth and the nose or as a result of internal blocking for example wedging in the mouth or the throat; toys attached to food must have their own package that must be appropriate size to avoid the risk of ingestion or aspiration into air passages (an example could be a toy attached to cornflakes);

– flammability¹³ – which means that toys must be made of materials which do not burn if directly exposed to a flame, spark or other potential source of fire; toys of the type aromatic board games can not contain substances or mixtures that after mixing can cause an explosion due to chemical reactions or heating;

– chemical properties¹⁴ – that is that toys can not contain fragrances that cause allergies (eg. a fig leaf, cinnamon alcohol), and moreover they cannot have properties carcinogenic, mutagenic or working harmfully on the reproductiveness;

– electrical properties¹⁵ – which means that toys can not be powered by electricity with a voltage exceeding 24 V; electric toys must be designed and manufactured in a way to ensure that the maximum temperatures reached by all directly available areas cannot cause the scald;


– hygiene¹⁶ – which includes taking such actions in order to avoid infection, sickness and intoxication and in the case of toys intended for children under the age of 36 months, they must be designed and manufactured to ensure their cleaning;

– radioactivity¹⁷ – the toys should fulfill all the rules adopted under Chapter III of the Treaty establishing the European Atomic Energy Community.

According to mentioned establishments the manufacturer is obligated to conduct the analysis of the various risks associated with the properties of the toy and to assess the potential exposure of the child to the above mentioned threats. There is nothing surprising in the fact that the producer has knowledge of the design and manufacture of the toy / toys. In this process the producer should consider abilities of children, in particular toys intended for children under 36 months or from other age groups. Having a complete knowledge in this field, the producer must make effort that toys and the substances contained in them are not threatened for safety and the health of children or third person while using them.

2.2. Marking toys as the information duty for the producer

Access to full, clear and understandable information about goods gives the consumer the opportunity to choose if it meets the expectations¹⁸. In case of toys it is particularly essential that in most of situation they are bought by adults who want to be sure if the given toy is safe. As a last resort “final consumer” is a child whose health and safety must be especially protected. The regulation of this ordinance MG are “a barrier”. They impose on producer or his authorized representative the duty of putting on the toy: type name, lot number, series, model or other information to allow identification of the toy, and if the size or nature of the toy makes it impossible, the information is placed on the package or on the document attached to the toy. Moreover marking CE¹⁹ must be visible, legible and indelible.

Manufacturers and importers are also obliged to place on toys, names, registered names of goods or registered trade mark and contact address, and when this is not possible, such data should be on the package or in the document attached to the toy²⁰. The user instruction and the warnings about the safety of the toy are also attached to the toy. The last ones can refer to the minimum or maximum age of the child, his abilities, and also to the maximum or minimum weight of the child. The warnings on toys can have written format or additionally the graphic symbol or just graphic. In case of toys that can be dangerous for children under 36 months. Such toys include the information: “Not suitable for children under 36 months”, or “Not suitable for children under the age of three years” and additional graphic symbol that remains like . Moreover the content should be preceded by a warning word: “Warning” or “Warnings”.

Warnings may have different content and it depends on the category of toys eg.:

– “Not suitable for children under the age of (*) years. For use under adult supervision” – a warning placed on the chemical toys (eg. a chemistry set);

– “Personal protection equipment should be applied. Do not use in the road traffic” – eg. a warning placed on rollerskates, skateboards, bicycles that are toys;

– “Contains the toy. Recommended adult’s supervision” – the warning concerning the toy being in the food or mixed with it.

Warning on the toy, attached label, package and if necessary the instructions supplied with the toy manufacturer must be placed in a visible, easily legible, understandable and accurate. Transparency of information is very important in this case because it gives the consumer possibility to read the information about the toy before buying. It is irrelevant if the contract is traditional or online. However, it is important that the warning and instruction should be formulated in Polish.

Meeting the requirements of safety and labeling requires manufacturers to post the declaration of conformity and the technical documentation of toys. The Declaration is a document by which the manufacturer takes responsibility for the conformity of the toy with the essential safety requirements. The documentation contains all relevant data or details of the means used by the manufacturer eg. conceptual design, the results of design calculations and test reports²¹.

2.3. The assessment of toys’ compatibility

Before the toy will be introduced to the market, the manufacturer must demonstrate that in normal use it will not be a threat to the safety and health of children. For this purpose, the manufacturer shall follow the procedures specified in the appropriate conformity assessment modules (module A, B or C).

Internal production control, the so-called module A is used, when the toys are manufactured in accordance with harmonized standards²² covering all essential safety requirements for the toy. In this procedure is not involved third person (notified body)²³.

Module B called “examining of the EC type the “ is used when:

– there are not any harmonized standards covering all the essential safety requirements for the toy;

– manufacturer has not applied harmonized standards or has applied them partly;

– one or more harmonized standards have been published with a restriction;

– manufacturer considers that the nature, design, construction or purpose of the toy requires verification by the notified body²⁴.

Due to the fact that the module B covers the design part, the manufacturer should pass the technical draft of the toy to the notified body. This entity examine the technical documentation and supporting evidence to assess the

adequacy of the technical design of the toy. If the project meets the requirements of regulation MG, the notified body should issue the EC examination type to the manufacturer²⁵.

Module C relates to the production stage. In this procedure, the manufacturer ensures and declares, that the toys are in compatibility with the described type in the EC type-examination certificate and meets the requirements regulation MG²⁶. This procedure is carried out without the involvement of a Notified Body.

3. Information systems in the toy industry

RAPEX “it is a system that allows gathering and exchanging information about dangerous products being on an Euromarket”²⁷, except for the pharmaceuticals, medical products and the food and fodders²⁸, between Member States and the European Commission.

Functioning of this system is possible thanks to accepted legal solutions in the directive of the European Parliament and Council 2001/95/EC from 3 January 2001 on the general safety of the products²⁹.

As mentioned above, the RAPEX system contains information about many dangerous products including toys, it does not mean that these products are the most dangerous. “The number of notifications is a reflection of the high level of toys control associated with the care for the safety of the children and a low risk tolerance. If other categories of products were analyzed deeply, RAPEX reports would have been more extensive”³⁰.

The purpose of this system is to guarantee that only safe products – here toys – are placed on the European market. Therefore, if the national authorities or the producers decide that the toy poses a threat they must notify the European Commission. On the basis of the data verified by the Commission, it decides if the toy is dangerous or not. If it turns out that it is, the Commission gives information on the toy in the system and communicate it to the other Member States. “Disdistribution of information between the competent authorities in this field takes place through a system of national contact points RAPEX (in Poland it is located in the Department of Market Surveillance OCCP³¹). The task of the competent national authorities is to determine if the notified product is present on the market or it could be withdrawn from it. The results of taken activities (market surveillance) are passed to the European Commission”³².

Every Friday, the Commission publishes a weekly overview of products posing a serious threat, which contains information about the product, potential risks and the measures that have been taken in the reporting country³³. In a report dated on 02.13.2015, there were 10 toys posing a serious threat³⁴. For example the plastic doll that due to noxious substances could cause damage to the reproduction system. Measure taken by the notifying country – here the UK – was the destruction of the product. Country of origin: China. Another example is the plush lion, the black belt contains substances noxious for children, which can cause damage to the reproduction system. Measure taken by the notifying country – here France – the rejection of import at the border. Country of origin: China. Another examples are the plush toys which eyes are easily detached by children and placed in their mouth, which poses a risk of choking. Measure taken by the notifying country – here the UK – was to withdraw the product from the market. Country of origin: China.

In the Polish legal system in case of verifying by a specialized authority³⁵ that the product – here a toy – poses a serious threat, the President of the Office of Competition and Consumer Protection (farther: the President of the OCCP) provides the European Commission information on the withdrawal of the toy from the market or use, prohibition of sharing toys, as well as information about the action taken by the manufacturer in order to eliminate the threat posed by the toy. President of the OCCP also keeps a register of products not compatible with the essential requirements (toys).

In 2015, the fishing rod with fishes³⁶ were reported in the national system. Fish were made of rigid plastic. All fish have metal elements in the mouth. The rod is made of not very rigid plastic. There was a rope attached to rod ended with an anker which has a magnet. Country of manufacture: China. Threats posed by toys is choking and suffocation. The measures that have been taken in order to reduce the risk was the notification of consumers about the identified incompatibility with the essential requirements.

Another example would be a toy Spider-Man³⁷. It is rolling cylinder, settled between the cradle to which there should be attached an element for pushing, in the form of the plastic tube with the handle. Inside the cylinder there is a plastic sphere with rattling elements. There is Spider-Man on the colour sticker. The toy does not have a sign in which country it was produced. Threats that causes this toy is injury (injuries – cuts, stab). The measures taken by the President of the OCCP is withdrawal of the toy from the market, and the ransom of the product upon request of people who bought it.

Information system in the industry of toys present both in the EU area and domestic is one of the statutory instruments which help to protect the consumer. Thanks to the system it is possible to eliminate from the market products dangerous for health and lives especially among younger players. The action taken for consumers has a positive response because they help ensuring the high level of safety protection.

4. Inspection of toys in meeting the requirements concerning the safety

Special organs such as provincial inspectors of the Commercial Inspectorate are exercising control of toys³⁸. The purpose of inspection is to verify if toys present on the market are compatible with the requirements of regulation MG. With regular checks of the products we can see what problems we have to deal with.

How it appears from reports of the Commercial Inspectorate (farther: CI) in 2013 they controlled 3 312 toys. Irregularities were stated in “1 146 products (35.7 %), the most coming outside the EU – 2 462 (76.7 % controlled) and of domestic production – 648 (20.2 % controlled)”³⁹. They inspected mainly:

- “631 toys for babies to watch, catch, hug (19.6 % controlled, questioned 145 – 23.0 % in this category);
- 439 of dolls (13.7 % controlled, questioned 152 – 34.6 % in this category);
- 388 soft, stuffed (12.1 % controlled, questioned 123 – 31.7 % in this category);
- 191 of construction toys and jigsaws (59 % controlled, questioned 5.9 – 30.9 % in this category);
- 187 of sets of games (5.8 % controlled, questioned 81 – 43, 3 % in this category)”⁴⁰.

During the control the incompatibility happened in the scope:

- “unreasonable placing warnings” 0-3 “– in the case of 319 toys;
- improperly issued a declaration of compatibility – in the case of 253 toys⁴¹;
- absence of the manufacturer – in the case of 241 toys;
- lack of warnings and instructions – for 197 toys;
- improperly formulated or indicated a non-existent risk – in the case of 178 toys;
- incorrectly formulated warnings and instructions – for 177 toys”⁴².

Apart from indicated incompatibility there were also detected other which concerned the structure of toys, workmanship and materials. In the examination in the Specialist Laboratory for 360 samples of toys indicated irregularities in 128 samples (35.6 % Examined)⁴³. Mechanical properties, physical and chemical properties of toys were examined:

- mechanical and physical properties – 293 samples tested, 123 were identified non-compliance (34.2 % of the surveyed),
- user safety of electric toys – tested 28 samples in 6 non compliance (1.7 % of the surveyed),
- migration of determined heavy roots – examined 22, in 8 incompatibilities were stated (2.2 % examined),
- flammability – tested 12 samples in 2 non compliance (0.6 % of the surveyed)”⁴⁴.

The most common abnormalities include:

- appearance of small parts, that risked choking or strangulation,
- exceeding the permissible noise levels, leading to a risk of damage or loss of hearing,
- appearance of wire what is posing a threat of crippling or hurting,
- appearance of wire what is posing a threat of crippling or hurting⁴⁵.

During the control, toys were inspected in order to find the dangerous substances which can affect negatively on the reproduction system of children. Examined 238 samples of toys, and 65 were found exceeding the permitted levels of substances (32.8 % of the surveyed)⁴⁶.

According to the reports CI, in 2013, 35.7 % of toys were questioned so it is more 0.3 % than in 2012. In the first quarter of 2014. 36.3 % reported irregularities. Defects which were noticed during the control concern the structure of toys. Due to small elements of the toy and the easiness of detach them, children are exposed to the loss of their health, even lives through eg. asphyxiation. The problem is the presence of chemicals and sharp edges of toys that can lead to injury. Irregularities also appear in the labeling of toys, which negatively affects the safety of the child. Adults are then deprived of access to reliable and comprehensive information, which is to give the sense of safety among children and toy buyers.

5. Conclusion

The right to protect the consumer’s health and safety is one of the five fundamental rights, which was expressed in the first program of consumer protection in the European Community⁴⁷. In pursuit to this law has been postulated that there should be on the market only products and services that are not life-threatening and health-treating. In fact it meant the need to create appropriate requirements of the safety and informing weaker entities of the possible risk resulting from using goods available on the market. The issue of safety is strongly accented in the current consumer protection program adopted for 2014–2020.

It manifests in the aspiration to strengthen and increase the safety of the products through the effective market surveillance in the entire EU. In the case of the toy industry in which all economic operators are involved in the supply and distribution chain had been imposed requirements that in normal use the toys on the market do not endanger the health and safety of children.

Without reliable, intelligible and real information the consumer isn’t able to make the right decision. Therefore, there is a reason that the operators are imposed obligations relating to the labeling of toys. No less important are the essential requirements for the safety of toys, as well as the compatibility assessment procedures which ensure a high level of children’s protection eg. the presence of chemicals in toys, which are harmful to health and life. Child’s safety as a consumer on the toy market depends on appropriate taken action in the legislative sphere and beyond it. Without adapting to the growing market of toys regulations youngest consumer protection would become illusory. From the perspective of time it can be stated that at present the child protection as the consumer is more and more effective. Action taken by special organs that control toys according to its compatibility with the safety standards confirm it.

¹ More on this topic, J. Rzucidło, J. Węgrzyn, Prawne aspekty ochrony anonimowości konsumenta w Internecie, Wrocławskie Studia Erazmiańskie. Zeszyty Studenckie 2013; K. Gajda-Roszczyńska, Sprawy o ochronę indywidualnych interesów konsumentów w postępowaniu cywilnym, Warszawa 2012; M. Jabłoński, J. Węgrzyn, Publicznoprawna ochrona konsumentów przed nieuczciwymi praktykami rynkowymi w Konstytucji RP i w ustawodawstwie zwykłym, (w:) Standardy ochrony konsumenta w Polsce na tle koncepcji effet utile systemu ochronnego UE, pod red. J. Frąckowiaka, R. Stefanickiego, Wrocław 2011; P. Miklaszewicz, Obowiązki informacyjne w umowach z udziałem konsumentów na tle prawa Unii Europejskiej, Warszawa 2008; A. Krawczyk, Ochrona ekonomicz-

nych interesów konsumenta w umowach zawieranych na odległość, Radca Prawny 2006, nr 4; R. Stefanicki, Ochrona konsumenta w świetle ustawy o szczególnych warunkach sprzedaży konsumenckiej, Kraków 2006; A. Jedynak, Ochrona prywatności konsumentów, Ius Et Administratio 2005, nr 1; E. Łętowska, Prawo umów konsumenckich, Warszawa 2002; A. Pawłowski, S. Koroluk, Prawo ochrony konsumentów, Warszawa 2002; A. Streżyńska, Ochrona konsumentów w Unii Europejskiej i w Polsce, Warszawa 2000.

² J. Węgrzyn, Prawo konsumenta do informacji w Konstytucji RP i w prawie unijnym, Wrocław 2013, p. 59.

³ See on this subject, S. Wencel, Ochrona dzieci jako konsumentów przed nieuczciwymi zachowaniami reklamy, Jurysta nr 7–8/2013, p. 33–37.

⁴ E. Łętowska, Ochrona dziecka jako konsumenta – problemy legislacyjne, Konferencje i SeminaRIA. Dziecko jako konsument – zagrożenia i ochrona 2(16)98, Biuletyn Biura Studiów i Ekspertyz Kancelarii Sejmu, p. 91.

⁵ Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys, Official Journal L 170, 30.06.2009.

⁶ Official Journal L 187, 16.07.1988.

⁷ Official Gazette, No 63, position 454.

⁸ Consolidated text, Official Gazette 2014, position 1645.

⁹ § 2 point 1 rwz.

¹⁰ See, § 3 point 8 rwz.

¹¹ See, § 3 point 9 rwz.

¹² See Annex 1, point 1 rwz.

¹³ See Annex 1, point 2 rwz.

¹⁴ See Annex 1, point 3 rwz.

¹⁵ See Annex 1, point 4 rwz.

¹⁶ See Annex 1, point 5 rwz.

¹⁷ See Annex 1, point 6 rwz.

¹⁸ More on this subject, J. Węgrzyn, *op.cit.*, p. 161–184.

¹⁹ See, Regulation (EC) No 765/2008 of the European Parliament of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, Official Journal L 218 z 13.08.2008. See also on this subject, M. Piękowski, *Podstawy ochrony prawnej konsumenta. Przepisy i przykłady*, Warszawa 2012, p. 29–30.

²⁰ § 5 point 4 rwz.

²¹ See, article 18 rwz.

²² List of harmonized standards is in the Announcement of the President of the Polish Committee for Standardization of 10 July 2014. Polish Monitor of 7 November 2014. Position 1052.

²³ Lists of notified bodies are published in the Polish Monitor in the form of notices.

²⁴ Article 16 rwz.

²⁵ See, Annex 4 rwz.

²⁶ More on this topic, *ibidem*.

²⁷ J. Węgrzyn, *op.cit.*, p. 190.

²⁸ <http://ec.europa.eu/consumers/safety/rapex/alerts/main/index.cfm?event=main.listNotifications&selectedTabIdx=1> [access: 15.02.2015].

²⁹ Official Journal L 11 z 15.1.2002.

³⁰ http://www.toys.pl/pdf/2012/tsd_raport.pdf [access: 15.02.2015].

³¹ Office of Competition and Consumer Protection.

³² J. Węgrzyn, *op.cit.*, p. 191.

³³ <http://ec.europa.eu/consumers/safety/rapex/alerts/main/index.cfm?event=main.listNotifications&selectedTabIdx=1> [access: 15.02.2015].

³⁴ http://ec.europa.eu/consumers/safety/rapex/alerts/main/index.cfm?event=main.weeklyOverview&web_report_id=1241&selectedTabIdx=1 [access: 15.02.2015].

³⁵ Eg. President of the Office of Electronic Communications, see – article 38 USOZ.

³⁶ http://publikacje.uokik.gov.pl/hermes3_pub/Wpis.ashx?Id=2761&version= [access: 19.02.2015].

³⁷ http://publikacje.uokik.gov.pl/hermes3_pub/Wpis.ashx?Id=2752&version= [access: 19.02.2015].

³⁸ Article 40 USOZ.

³⁹ http://www.uokik.gov.pl/raporty_z_kontroli_inspekcji_handlowej.php [access: 19.02.2015].

⁴⁰ *Ibidem*.

⁴¹ Applies to toys marketed after 21 July 2011.

⁴² http://www.uokik.gov.pl/raporty_z_kontroli_inspekcji_handlowej.php [access: 19.02.2015].

⁴³ *Ibidem*.

⁴⁴ *Ibidem*.

⁴⁵ *Ibidem*.

⁴⁶ *Ibidem*.

⁴⁷ More on this topic, J. Węgrzyn, Ochrona praw konsumentów i innych osób przed nieuczciwymi praktykami rynkowymi, (w:) Realizacja i ochrona konstytucyjnych wolności i praw jednostki w polskim porządku prawnym, pod red. M. Jabłońskiego, Wrocław 2014, p. 775–778.

Summary

Justyna Węgrzyn. Safety of the child as the consumer on the market of toys in the Polish law.

The Author presented in the article, how important the legal solutions are, which provide protection for the youngest consumers at the market, and so the kids. For this purpose the Author refers to the toy industry to show how it comes to the elimination with market toys, which are dangerous to the health and lives of children.

Key words: consumer, toys, safety, producer, information duty, information systems, RAPEX.