

NATIONAL MARKET SURVEILLANCE PROGRAMME FOR 2014 - GENERAL PART

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GLOSSARY OF ABBREVIATIONS

- ACAS** – Act of 30 August 2002 on the conformity assessment system (OJL of 2010, No. 138, item 935, as amended)
- MSA** – market surveillance authority
- ADCO** – Administrative Co-operation Working Group, such expert groups have been created for the majority of the new approach directives
- EC** – European Commission
- OCCP** – Office of Competition and Consumer Protection

1 Introduction

1.1 Objective of the document

The objective is to present the areas which are planned to be controlled by the market surveillance authorities participating in the Polish market surveillance system, in order to eliminate undesirable market phenomena, such as the marketing of products posing a risk to health and safety of users or those which do not comply with the applicable requirements laid down in the European Union harmonisation legislation.

The obligation to draw up periodically national market surveillance programmes and to submit them to the European Commission and to the other Member States results from the Article 18(5) of the Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance in relation to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ EU L 218 of 13.08.2008, p. 30 - hereinafter referred to as: Regulation 765/2008). In addition, the general part of the programme will be made available to the public on the website of the Office of Competition and Consumer Protection (http://uokik.gov.pl/kompetencje_prezesa_uokik_i_opis_systemu.php#faq851) and of the European Commission (http://ec.europa.eu/enterprise/policies/single-market-goods/internal-market-for-products/market-surveillance/index_en.htm - select a country).

1.2 Scope of the document

The programme covers issues related to the control system for non-food products (the market surveillance system) actions subject to the European Union harmonisation legislation¹ (called the harmonised area in particular covering products with the CE marking²). This document has been prepared on the basis of sectoral control plans and priorities identified by MSAs (the National Labour Inspection, the President of the Office of Electronic Communications, the Chief Inspector for Environmental Protection, the President of the Office of Rail Transportation, the General Inspector of Building Control, the President of the State Mining Authority, Directors of Maritime Authorities, the Chief Inspector of Road Transport).

Actions within the area of general product safety and control system for medical devices have been excluded from the scope of the document.

1.3 Timeframe and territorial range of the programme

The document presents actions planned from 1 January to 31 December 2014. The geographical scope of actions taken by all the MSAs covers the whole country.

¹ “European Union harmonisation legislation” shall mean any EU legislation harmonising the conditions for the marketing of products (Article 2 (21) of Regulation 765/2008).

² “CE marking” shall mean a marking by which the manufacturer indicates that the product is in conformity with the applicable requirements set out in EU harmonisation legislation providing for its affixing (Article 2 (20) of Regulation 765/2008).

2 Scope of the non-food product market surveillance system in Poland

2.1 Authorities involved in the market surveillance system monitored by the President of the OCCP

The basic legal act governing the functioning of the control system for marketed products subject to the new approach directives³ in Poland is the Act of 30 August 2002 on the conformity assessment system and the Regulation 765/2008. In addition, the control of the conformity of products with essential requirements is carried out pursuant to the separate provisions (national implementing regulations issued pursuant to the Article 9⁴ of ACAS and other acts⁵ defining the conformity assessment procedures and essential requirements) and also with the auxiliary use of harmonised standards⁶.

The national market surveillance system covers the control of products and conducting administrative proceedings on non-compliant products with essential, specific or other requirements. The national market surveillance system is created by the President of OCCP and the following MSA:

- 1) regional inspectors of Trade Inspection,
- 2) National Labour Inspectorate authorities,
- 3) President of the Office of Electronic Communications,
- 4) Environmental Protection Inspection authorities,
- 5) President of the Office of Rail Transportation,
- 6) construction supervision authorities,
- 7) President of the State Mining Authority,
- 8) directors of maritime authorities,
- 9) regional inspectors of road transport.

2.2 Priorities of the market surveillance system for 2014

The main objective of the market surveillance system is to guarantee the conformity of marketed products with the provisions of the relevant EU harmonization legislation within Poland and the European Union and the safety of consumers and users of products offered in the Single Market.

In determining control priorities for the year 2014, account was taken mainly of the areas in which the majority of irregularities were observed and also of products potentially posing the

³ This means the directives of the European Community, adopted in accordance with the principles contained in the resolution of the European Union Council of 7 May 1985 on a new approach to technical harmonisation and standards (Article 5 point 15 of ACAS). These directives require manufacturers to conduct conformity assessment procedures ending in applying the CE conformity.

⁴ The regulations issued by the ministers competent for the subject of the conformity assessment specifying the essential requirements for products subject to the conformity assessment and conformity assessment procedures.

⁵ Inter alia, Act of 21 June 2002 on explosives for civil use (OJL No. 117, item 1007, as amended), Act of 16 April 2004 on construction products (OJL No. 92, item 881, as amended), Act of 13 April 2007 on electromagnetic compatibility (OJL No. 82, item 556).

⁶ Definition see: Article 5 point 14 of ACAS and Article 2 point 9 of Regulation 765/2008.

greatest threat to health and life of humans (e.g. because of their purpose for a particularly sensitive group of customers - for example, children under 3 years of age). In addition, in determining the priorities, account was taken of the group of products which were the most complained about by entrepreneurs, consumers and non-governmental organisations and trade associations as well as of available studies and scientific analyses, information submitted at meetings of the administrative co-operation working groups (ADCO) and the latest legal amendments introducing new product groups or requirements to the system [such as adoption of the Act of 14 September 2012 on the obligations to provide information about the energy consumption by energy-using products implementing the Directive of the European Parliament and of the Council 2010/30/EU of 19 May 2010 on the indication by labeling and standard product information of the consumption of energy and other resources by energy-related products (OJ EU L 153 of June 18, 2010, p. 1)].

In determining the priorities for 2014, the emphasis was also put on carrying out regular inspections in the area of directives covering the largest scope of product groups, i.e. the Directive 2006/95/EC LVD - Low Voltage, the Directive 2009/48/EC TOYS - Safety of toys, the Directive 2006/42/EC MD - Machinery safety, the Directive 2009/125/EC Ecodesign. In addition, the Trade Inspection annually monitors the activities of market segments characterized by universality and seasonality of use (e.g. pyrotechnic articles because of the serious risk they pose, not only directly to users, but also to viewers).

In the area of construction products, the construction supervision authorities plans to inspect products affecting the buildings structure safety and environmental protection parameters. The control of groups of products offered in local markets, was taken into account as well according to analyses of regional construction supervision inspectors.

In addition, in 2011, enacted the Regulation of the European Parliament and the Council No. 305/2011/EC of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ EU L 88 of 4.04.2011, p. 5), which came into force on 1 July 2013. Thus it would be the first full year of the new regulations in this area, which is a challenge for market participants. The aim of the EU legislator was to harmonize inspection procedures in this area in the EU and the realization of the principle of free movement of goods, also on the market for construction products.

3 Information on inspections planned in 2014

It should be stressed that ensuring safety and the protection of health and life of consumers and professional users is a continuous process. In carrying out entrusted tasks, the MSAs try according to possessed resources, to take actions in order to effectively eliminate products posing potentially serious threats from the market. The MSAs try to cover with their actions all areas within their competence, accordingly to their financial and human resources. It is, however, necessary to keep in mind that any planned actions cover only those areas which as a result of the risk analysis, have shown the highest level of risk and the greatest probability of

serious threat. Nevertheless, the provisions not covered within the scope of actions planned in a given year are also controlled in case of reliable complaints and signals from the market indicating on a serious threat to health and life of consumers and users to be found.

Detailed information on inspections broken down by thematic areas and competences of the MSA is included in a separate document drawn up according to the template developed by the EC, the so-called sectoral plan. This document is used only for internal purposes and will not be published.

4 Cooperation among the national MSAs

A standing advisory and consultative committee, called the Steering Committee for Market Surveillance was created in order to ensure effective cooperation of the authorities forming the national market surveillance system. In addition to the representatives of the market surveillance authorities, the Committee consists of the representatives of the Ministry of Finance (representing the Customs authorities) and the Ministry of Economy (responsible for legislative issues in the product system control). The main objective of the Committee is to develop cooperation among the authorities participating in the national market surveillance system. In 2014 planned to be at least one meeting of the Committee to discuss, inter alia, current issues related to the activities of market surveillance in Poland, the EU's reform of the market surveillance system, which will affect the structure and functioning of the national system, as well as full implementation in Poland of a new IT system for the exchange of information between EU market surveillance authorities - the ICSMS (*Internet-based Information and Communication System for Europewide cross-border Market Surveillance of technical products*).

At the same time, lasting from early 2013 reform of the EU market surveillance system is the need to develop on the basis of the modern concept of national control system that responds to the challenges of product safety regulatory bodies (such as traceability of the product or the safety of products sold via the internet). Streamlining and simplification of national regulations regarding national provisions of non-food product safety, both for businesses and consumers, will be an important factor influencing the effectiveness of actions taken by public administrations in subsequent years.

5 Cooperation between the Customs authorities and MSAs

An effective and swift elimination of products posing a threat to safety and health of people, primarily in concern with those imported from the third countries, is to stop their import by the customs authority prior to their marketing. The Customs authorities work with MSAs on a regular basis, through the application of the procedure referred to in Articles 27-29 of the Regulation 765/2008/EC - the suspension of a product release of for free circulation in the EU market.

Permanent development of cooperation with the Customs authorities with regard to products meeting the requirements is one of the priorities of all MSAs participating in the

system. This strengthens the effectiveness of the system which allows to detect irregularities even before introducing products into the common EU market. It is expected to maintain the upward trend in applications directed the customs authorities to MSAs for help in determining whether a product can be released for free circulation in the EU.

6 Intra-Community cooperation

The cooperation inside the European Union affects the efficient functioning of the market surveillance system as well. MSAs shall participate actively in the works of the EU institutions as well as in meetings on amending the EU harmonization legislation being within the competence of each MSA. The representatives of the OCCP shall attend the meetings of Committee of the Directive on General Product Safety (2001/95/EC) and the Expert Group “Internal Market for Products - Market Surveillance Group”. The representatives of MSA will also participate in international projects on market surveillance (so-called joint actions), and furthermore they will individually take other forms of cooperation with market surveillance authorities in the EU Member States (e.g. conferences, projects of exchange of officials financed from the EC funds, providing mutual administrative assistance).

In 2014, as they currently do, according to their financial capacity the representatives of MSAs will participate in the meetings of ADCO working groups within their competence.

7 Contact data

This program has been developed by the Market Surveillance Department of the Office of Competition And Consumer Protection, on the basis of the sectoral plans provided by all MSAs. The person responsible for the issues related to the programme is:

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