

# Non-Food Product Safety in the European Union. Case Study: Romania

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## Abstract

*Since 1975 when the Council Resolution on a preliminary programme of the European Economic Community for consumer protection and information policy was adopted and up to the present, the consumer safety policy has been developing continuously from general regulations on consumer's rights to complex systems that ensure the consumer's safety. The paper presents the non-food product safety system (RAPEX) in the European Union and analyzes the way it is managed in Romania. It highlights the differences between the notifications sent by Romanian authorities and those registered by the European Commission. Some recommendations were made in order to improve the consumer's safety in the European Union, Romania and other countries, as well.*

**Key words:** *non-food products, RAPEX, consumer protection, notifications*

**JEL Classification:** *D18, L67, L68, L69*

## Introduction

The first step in developing the consumer safety policy in the European Union was made in 1975 when it was adopted the Council Resolution of 14 April in which the principle of consumer protection, information policy and general actions taken in this field were approved.<sup>1</sup>

Six years later, in 1981, the Council Resolution of 19 May stated the most important five consumer's rights:<sup>2</sup>

- protection of consumer's health and safety;
- protection of consumer's economic interest;
- consumer's redress;
- consumer's information and education;
- consumer's consultation and representation.

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<sup>1</sup> Council Resolution of 14 April 1975 on a preliminary programme of the European Economic Community for a consumer protection and information policy, pp.1

<sup>2</sup> Council Resolution of 19 May 1981 on a second programme of the European Community for a consumer protection and information policy, pp.2

At the same time, in the implementation of the programme for consumer protection and information policy, this Resolution referred to protection against health and safety hazards with reference to harmonization of laws on foodstuffs, non-food products (cosmetics, textiles, toys and pharmaceutical products), tobacco, alcohol, manufactured products and dangerous substances.

In 1986, the Council Resolution of 23 June approved the importance of taking into account the consumer's interests in some Community policies such as the quality of products and services, transport, competition and agriculture.<sup>3</sup> Thus, the new legislation should be harmonized to ensure the consumer policy.

One year later, in 1987, the Council Directive 87/357/EEC focused on non-food products that appear to be other than they are and the consumers (children) are likely to take them for foodstuff. The Directive states that each Member State will check the products from their internal market, will ban or withdraw them and will inform the Commission about the measures taken.<sup>4</sup> It can be noticed that these are the first actions and along with the need to develop a Member States network to exchange information in product safety field they will further on form the basis of RAPEX.

The year 2001 was the milestone by adopting the General Product Safety Directive (GPSD) which contains the requirements for general safety, the criteria for conformity assessment, the producers, distributors and Member States' obligations and the principles for exchange of information. One of the most important aspects of the Directive is the regulation of procedure and notifications guidelines for RAPEX.<sup>5</sup> Thus, starting from this moment the safety system becomes operational.

Three years later, the Commission Decision 2004/418/EC stated the objectives of RAPEX, products that are not covered by RAPEX, the types of measures taken by authorities and should be shared through RAPEX, the criteria used to identify the serious risks, the mandatory information that a notification should contain, the deadlines for submission the notification to Commission by Member States and vice versa, the follow-up notifications procedure, the RAPEX network, the procedure of notification examination by the Commission, the connection between RAPEX notification and other notification mechanisms etc.<sup>6</sup>

In the same year it was adopted the Commission Decision 2004/905/EC which specified more accurately the criteria for notifications and non-notifications, notification procedure, contents of notifications (notification form) and the methodological framework to help companies to assess the risk which involves their products and to decide whether they should send notifications to the national authorities.<sup>7</sup>

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<sup>3</sup> Council Resolution of 23 June 1986 concerning the future orientation of the policy of the European Economic Community for the protection and promotion of consumer interests, p.1

<sup>4</sup> Council Directive 87/357/EEC of 25 June 1987 on the approximation of the laws of the Member States concerning products which, appearing to be other than they are, endanger the health or safety of consumers, pp.1-2

<sup>5</sup> Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, pp.8-16

<sup>6</sup> Commission Decision 2004/418/EC laying down guidelines for the management of the Community Rapid Information System (RAPEX) and for notifications presented in accordance with Article 11 of Directive 2001/95/EC, pp.1-35

<sup>7</sup> Commission Decision 2004/905/EC of 14 December 2004 laying down guidelines for the notification of dangerous consumer products to the competent authorities of the Member States by producers and distributors, in accordance with Article 5(3) of Directive 2001/95/EC of the European Parliament and of the Council, pp.1-15

On 13 December 2007, the new Treaty of Lisbon was signed and according to article 169 the EU ensures the protection of consumers' health, safety and economic interests<sup>8</sup> and sustains the right to education, information, compensation, redress, against mislead, to shop any good, to send back products, to sign fair contracts, to cancel the contracts etc.<sup>9</sup>

The Commission Decision 2010/15/EU from December 2009 repealed the Commission Decision 2004/418/EC<sup>10</sup> therefore it generally contains the main issues specified in the 2004 Directive but in a more detailed format.

## **Non-Food Product Safety in the European Union. Case Study: Romania**

*Non-food safety policy* is perceived through *RAPEX* (acronym for *Community Rapid Information System*<sup>11</sup> or *Rapid Alert System for non-food products posing a serious risk*<sup>12</sup>).

*RAPEX* is the European Union rapid alert system that allows rapid exchange of information between the 27 EU countries (plus Iceland, Lichtenstein and Norway) and European Commission regarding the measures in order to prevent or restrict marketing or use of unsafe products or those which have different risks to consumers' health.<sup>13</sup> Due to European Union harmonisation regulation, starting with January 1<sup>st</sup> 2010 *RAPEX* was extended to rapid exchange information on products that have risk to the health and safety of professional users or to other public interests protected by European Union regulation.<sup>14</sup>

There are some products that are not under the *RAPEX*'s cover:<sup>15</sup>

- products that are not used by consumers;
- second-hand products like antiques that will be repaired or reconditioned in order to be used;
- food and feed products;
- medicinal products;
- medical devices;

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<sup>8</sup> European Union, *Consolidated Versions of the Treaty on European Union and Treaty on the Functioning of the European Union, Charter of Fundamental Rights of the European Union*, Belgium, March, 2010, pp.124

<sup>9</sup> European Union, Directorate-General for Health and Consumer Protection, *Consumer Protection in the EU: Ten Basic Principles*, Brussels, 2005, pp.3-12

<sup>10</sup> Decision 2010/15/EU laying down guidelines for the management of the Community Rapid Information System 'RAPEX' established under Article 12 and of the notification procedure established under Article 11 of Directive 2001/95/EC (the General Product Safety Directive), pp.1-64

<sup>11</sup> Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, pp. 6

<sup>12</sup> European Commission, Directorate-General for Health & Consumers, *Rapid Alert System for non-food dangerous products*, 2012, [http://ec.europa.eu/consumers/safety/rapex/index\\_en.htm](http://ec.europa.eu/consumers/safety/rapex/index_en.htm)

<sup>13</sup> Ene, C., *Rapex System - an Efficient Tool for European Consumer Safety*, *The Annals of The "Ștefan cel Mare" University of Suceava. Fascicle of The Faculty of Economics and Public Administration*, Volume 11, No. 1(13), 2011, pp. 49-59

<sup>14</sup> European Commission, Directorate-General for Health & Consumers, *Rapid Alert System for non-food dangerous products*, 2012, [http://ec.europa.eu/consumers/safety/rapex/index\\_en.htm](http://ec.europa.eu/consumers/safety/rapex/index_en.htm)

<sup>15</sup> Decision 2010/15/EU laying down guidelines for the management of the Community Rapid Information System 'RAPEX' established under Article 12 and of the notification procedure established under Article 11 of Directive 2001/95/EC (the General Product Safety Directive), Part II, *RAPEX notification criteria*, pp. 9

- medical devices used for in vitro diagnostic;
- medical devices such as active implantable.

RAPEX is coordinated by the European Commission through *Health and Consumers Directorate-General of the European Commission* which manages the national Contact Points of Member States and other three non-EU countries mentioned above.

Each EU country, Iceland, Lichtenstein and Norway has established a national authority where it has been set up a RAPEX Contact Point with its own logistics in order to ensure a constant exchange of information between the Contact Point and other organizations which take part to RAPEX.

According to each country internal organization, the national institutions are agencies, commissions, inspections, services, inspectorates, centers, departments, boards, authorities, institutes etc. for consumer protection, security directions, divisions and directorates, ministries etc. with responsibilities in product safety area.<sup>16</sup>

The notification of EU countries, Iceland, Lichtenstein and Norway is mandatory when the product:<sup>17</sup>

- is for consumers' use;
- is under the restriction measures;
- is unsafe for consumers;
- its risk has cross-border effect.

The notification has a standard form, and should contain at least the following:<sup>18</sup>

- information which allows the product to be identified;
- description of the risk (including its level) and the results of analyses;
- type and duration of measures taken;
- distribution and destination of the product.

The easy exchange of information between European Union and national authorities through RAPEX is made possible by the IT system named Generic Rapid Alert System (GRAS) which replaced the old REIS application.<sup>19</sup>

The RAPEX procedure (figure 1) is based on the notification process and involves eight steps. It starts with the identification of the injuriousness of the product by the national authority that will both take action in order to reduce or eliminate the risk and inform the European Commission on product, risk and measures taken. If the European Commission validates the notification, then the information is spread to all National Contact Points from Member States, Iceland, Lichtenstein and Norway.

Then, the national authorities that manage the RAPEX Contact Points check if a similar product is on their market. If it is so, the national authority will withdraw the product, recall it from

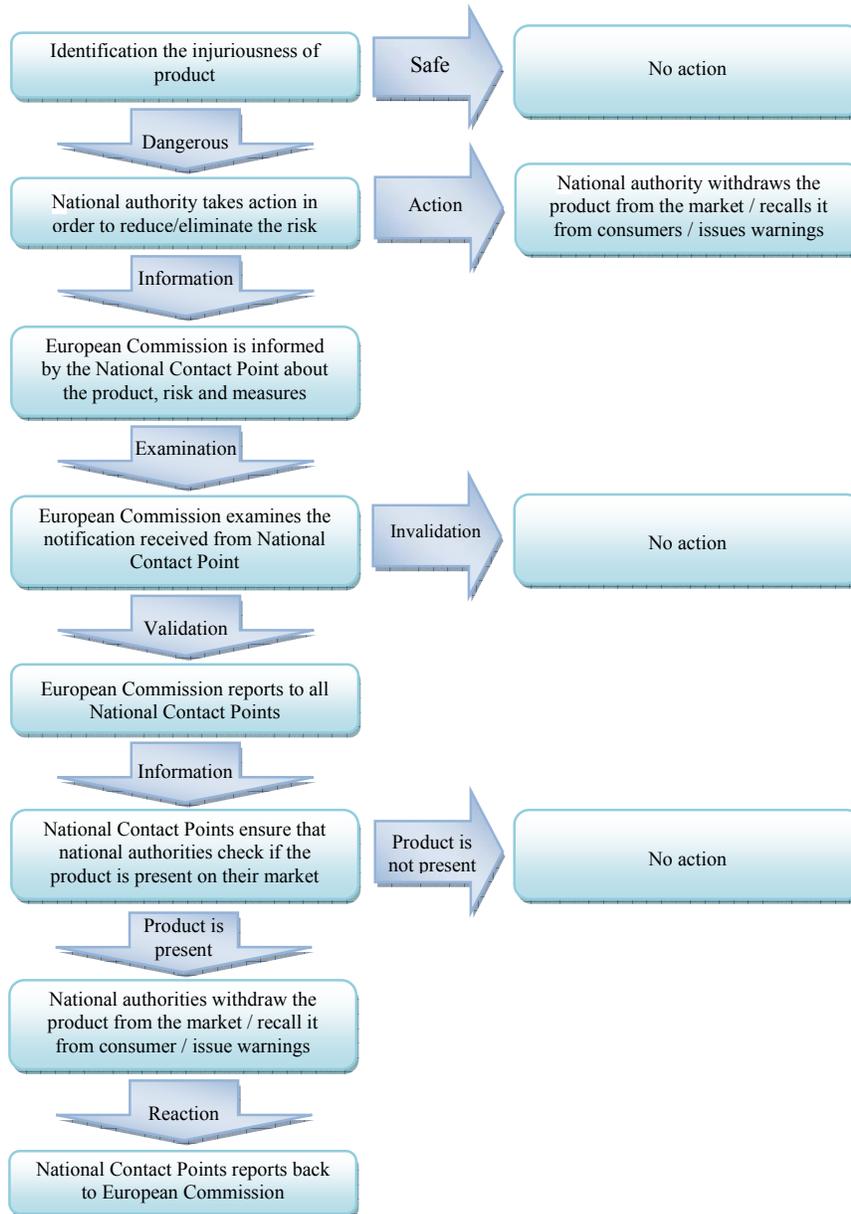
<sup>16</sup> European Commission, Directorate-General for Health & Consumers, *List of RAPEX Contact Points*, (Updated October 31, 2012), [http://ec.europa.eu/consumers/safety/rapex/contact\\_points.pdf](http://ec.europa.eu/consumers/safety/rapex/contact_points.pdf)

<sup>17</sup> Decision 2010/15/EU laying down guidelines for the management of the Community Rapid Information System 'RAPEX' established under Article 12 and of the notification procedure established under Article 11 of Directive 2001/95/EC (the General Product Safety Directive), pp. 8

<sup>18</sup> Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, Annex II Procedures for the application of RAPEX and guidelines for notifications, pp. 11

<sup>19</sup> European Commission, Directorate-General for Health & Consumers, *Keeping European Consumers Safe, 2010 Annual Report on the operation of the rapid alert system for non-food dangerous products, RAPEX*, pp. 51

consumer or issue other warnings. In this situation, the National Contact Point sends a reaction to the European Commission on these issues.



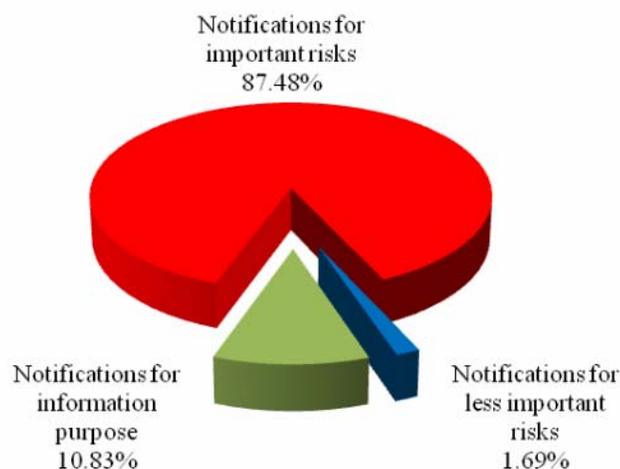
**Fig. 1.** RAPEX procedure

Source: Adapted from European Commission, Directorate-General for Health & Consumers, *Keeping European Consumers Safe, 2010 Annual Report on the operation of the rapid alert system for non-food dangerous products, RAPEX, 2011*, pp. 56 and European Commission, Directorate-General for Health & Consumers, *Rapid Alert System for non-food dangerous products, 2012*, [http://ec.europa.eu/consumers/safety/rapex/index\\_en.htm](http://ec.europa.eu/consumers/safety/rapex/index_en.htm)

Although RAPEX procedure seems complex, it is very efficient because the notifications have a standard form and the communication is based on GRAS.

In year 2010, the European Commission recorded 2,244 notifications through RAPEX. The notifications regarding important risks for consumers' health and safety had 87.48% (1,963

notifications) which is the biggest share in the whole notifications (figure 2). It is followed by notifications disseminated for information purpose (10.83%, i.e. 243 notifications) and notifications for less important risks (1.69%, i.e. 38 notifications).



**Fig. 2.** The share of each type of RAPEX notification in 2010

Source Adapted from European Commission, Directorate-General for Health & Consumers, *Keeping European Consumers Safe, 2010 Annual Report on the operation of the rapid alert system for non-food dangerous products, RAPEX*, 2011, pp. 13

In Romania, National Authority for Consumers Protection (NACP) is the national institution which was designated by Romanian Government to manage the RAPEX Contact Point.

The *Annual Report on the operation of the rapid alert system for non-food dangerous products RAPEX 2010*, which was released by Directorate-General for Health and Consumers, presents the distribution of the notifications of important risks sent by each notifying country (table 1).

**Table 1. Absolute and Relative Notifications of Important Risks by Notifying Country, 2010**

No.	Country	Notifications		No.	Country	Notifications	
		Absolute values	%			Absolute values	%
1.	Austria	29	1.48	17.	Luxembourg	5	0.25
2.	Belgium	14	0.71	18.	Malta	19	0.97
3.	Bulgaria	192	9.78	19.	Netherlands	38	1.94
4.	Cyprus	178	9.07	20.	Poland	68	3.46
5.	Czech Republic	13	0.66	21.	Portugal	39	1.99
6.	Denmark	25	1.27	22.	Romania	20	1.02
7.	Estonia	16	0.82	23.	Slovakia	62	3.16
8.	Finland	98	4.99	24.	Slovenia	20	1.02
9.	France	119	6.06	25.	Spain	146	7.44
10.	Germany	204	10.39	26.	Sweden	27	1.38
11.	Greece	159	8.10	27.	United Kingdom	88	4.48
12.	Hungary	191	9.73	28.	Iceland	0	0
13.	Ireland	23	1.17	29.	Lichtenstein	0	0
14.	Italy	88	4.48	30.	Norway	10	0.51
15.	Latvia	28	1.43	TOTAL		1,963	100
16.	Lithuania	44	2.24				

Source: Adapted from European Commission, Directorate-General for Health & Consumers, *Keeping European Consumers Safe, 2010 Annual Report on the operation of the rapid alert system for non-food dangerous products, RAPEX*, 2011, pp. 15

Table 1 shows that Germany sent the most notifications (204), followed by Bulgaria (192), Hungary (191), Cyprus (178), Greece (159), Spain (146), France (119), Finland (98), Italy and United Kingdom (88 each).

It must be pointed out the fact that the first 6 countries had over half (54.51%) and top 10 (one-third of countries) had almost three-fourths (74.53%) of all the notifications sent by the 30 countries.

Studying the values from Table 1, the states can be grouped into three categories. The first country group contains 7 countries with a notification share between 5 and 11%, the second group has 15 countries with a share between 1 and 5% and the third one has 8 countries with a share between 0 and 1%. If we are talking about absolute values, the first group gathers 1,189 notifications, the second 697 notifications and the third only 77 notifications.

RAPEX Romanian Contact Point sent 20 notifications to European Commission. Thus, Romania has a share of 1.02% of all notifications, it is on the twentieth place along with Slovenia (because it has the same number of notification, and Italy and United Kingdom share together the ninth place) and it is in the second group of countries according to the above classification.

There are only 8 countries with fewer notifications than Romania, i.e. Malta, Estonia, Belgium, Czech Republic, Norway, Luxembourg, Iceland and Lichtenstein.

In order to improve the dissemination of the information from RAPEX, the European Commission publishes weekly (every Friday) an overview report which contains the products with important risk to consumers on the basis of national institution notifications.<sup>20</sup> There are 52 overview reports each year according to the 52 weeks of the year.

The analysis of all 52 reports from 2010 showed that Romania sent 17 notifications of important risks (table 2). These concerned toys, electrical appliances, clothing, textiles and fashion items, lighting equipment and furniture.

The toys had the bigger proportion in all the notifications sent (52.94%), followed by electrical appliances (29.42%) and clothing, textiles and fashion items, lighting equipment and furniture with 5.88% each.

Three-fourths of notification products (76.48%) had China as country of origin and the other one-third is evenly distributed between India, Romania, Turkey and unknown country.

The danger for consumers widely depends on the type of product and its failing. Thus, in the case of toys the danger is represented by choking, injuries and suffocation, for electrical appliances there is a concern regarding the electric shock and fire, for clothing, textiles and fashion items there might be cases of strangulation and suffocation, for lighting equipment the danger involves the electric shock, while for furniture there might be the injuries.

As regards the measures adopted by the National Authority for Consumers Protection from Romania, the “withdrawal from the market” was applied in 29.41% of the cases, the “sales ban” action in 23.53%, both actions together 41.18% and “stop on sales and recall from consumers” in 5.88%.

Also, it is significant the period of time when the notifications were sent by the Romanian Contact Point. All the notifications were submitted after the second half of 2010 year, i.e. after June. Thus, 41.18% of notifications were reported in June, 23.53% in October, 17.65% in November, 11.76% between September and October and 5.88% between November and December.

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<sup>20</sup> European Commission, Directorate-General for Health & Consumers, *Rapid Alert System for non-food dangerous products, RAPEX – Latest notifications*, 2012, [http://ec.europa.eu/consumers/safety/rapex/rapex\\_archives\\_en.htm](http://ec.europa.eu/consumers/safety/rapex/rapex_archives_en.htm)

**Table 2. Notifications of Important Risks Sent by Romania to the European Commission, 2010**

No.	Week	No. Ref.	Product			Danger	Measures adopted by NACP
			Category	Type	Country of origin		
1.	27 (5-9 June)	1041	Toys	Set of rattles - Baby Sway Bell/Baby Shakes Bell	China	Choking and injuries	Sales ban and withdrawal from the market
2.	27 (5-9 June)	1040	Toys	Set of rattles	China	Choking and injuries	Sales ban and withdrawal from the market
3.	27 (5-9 June)	1039	Toys	Rattle - Baby rattle toy	China	Choking	Sales ban and withdrawal from the market
4.	28 (12-16 June)	1086	Electrical appliances	Extension cable	China	Electric shock and fire	Sales ban and withdrawal from the market
5.	28 (12-16 June)	1080	Electrical appliances	Electrical supply cord	China	Electric shock and fire	Sales ban and withdrawal from the market
6.	28 (12-16 June)	1061	Electrical appliances	Electrical supply cord	China	Electric shock and fire	Sales ban and withdrawal from the market
7.	30 (26-30 June)	1122	Toys	Doll - Baby doll	China	Injuries	Sales ban and withdrawal from the market
8.	39 (27 Sept. - 1 Oct.)	1450	Clothing, textiles and fashion items	Blouse for small girls	India	Strangulation and Suffocation	Sales ban
9.	39 (27 Sept. - 1 Oct.)	1443	Lighting equipment	Rechargeable torch - Big Power LED	China	Electric shock	Withdrawal from the market
10.	41 (11-15 Oct.)	1541	Furniture	Folding chair - Piccolo	China	Injuries	Withdrawal from the market
11.	41 (11-15 Oct.)	1536	Toys	Mask - Accessories – Great for parties	China	Suffocation	Sales ban
12.	42 (18-22 Oct.)	1548	Toys	Bath toys - Children's Toy	China	Choking	Withdrawal from the market
13.	42 (18-22 Oct.)	1547	Toys	Baby rattle toy - Baby concert – Kid music fun	China	Choking	Sales ban
14.	44 (1-5 Nov.)	1595	Toys	Carnival Mask "Top Grad Grimace"	Unknown	Suffocation	Stop on sales and recall from consumers
15.	45 (8-12 Nov.)	1682	Electrical appliances	Insect repellent heater	Romania	Fire	Withdrawal from the market
16.	45 (8-12 Nov.)	1680	Electrical appliances	Insect repellent heater	Turkey	Fire	Sales ban
17.	48 (29 Nov. - 3 Dec.)	1784	Toys	Mini cars - 6 PC Mini Die Cast Cars	China	Choking	Withdrawal from the market

Source: Adapted from European Commission, Directorate-General for Health & Consumers, *Weekly overview report of RAPEX notifications, Report 27; 28; 30; 39; 41; 42; 44; 45; 48/ 2010*

Studying the information from tables 1 and 2, some disparities can be highlighted. Thus, according to the 52 weekly overview reports of RAPEX notifications, the Romanian Contact Point sent only 17 notifications of important risks to the European Commission (described in detail in table 2) which differ from the 20 notifications that are in the *Annual Report on the operation of the rapid alert system for non-food dangerous products RAPEX 2010* released by the same European Commission (table 1, position no.22).

## Conclusions

The RAPEX is similar with Rapid Alert System for Food and Feed (RASFF) with the difference that it is applicable to non-food products for both consumers and professional users.

The benefits of RAPEX can not be questioned since it has a wide cover to all Member States by banning the sells and reducing the spread of products that jeopardize the consumers' health.

It is a complex system in which authorities, companies and consumers are equally involved by leading the national institutions to understand the importance of consumer safety, empowering

the companies to obtain and distribute only safe products and the consumers to complain about unsafe products, in order to ensure the safety of the whole society.

In the future, RAPEX will have to face new challenges due to the possible new enlargement of the European Union in the following years, increasing the complexity of products, launching of new products with new types of risk, importing products from new countries etc.

In Romania, the gap between the numbers of notifications from the same documents of the European Union may have as a source either the gathering of information from the weekly overview reports of RAPEX notifications for statistical processing or the weak information exchange between the Romanian Contact Point and RAPEX. In this case, the communication between them should be improved.

RAPEX can be extended to other countries which are not Member States of the European Union. A first step was done, by including countries like Iceland, Lichtenstein, Norway and China (RAPEX-China) in the RAPEX. Thus, it can be enlarged so that other countries from the Black Sea region, for example, can benefit from it.

Although, Romania, Bulgaria and Greece are members both of the Organisation of the Black Sea Economic Cooperation (BSEC) and the European Union, RAPEX can be applied to the other members states of BSEC, i.e. Russia, Ukraine, Moldova, Turkey, Georgia, Serbia, Albania, Armenia and Azerbaijan.

The benefits are both for the EU and BSEC. Firstly, BSEC countries represent the external border of the European Union and some products are imported from BSEC member countries to the EU. It is much easier for the European Commission to manage the product safety through RAPEX applied in BSEC states (excluding Romania, Bulgaria and Greece) than to increase the customs control. This measure will ensure the consumer protection in the European Union.

Secondly, the BSEC countries which are not Member States of the European Union will get advantage so that their products will be much safer for the consumers and the exports could rise due to the distribution on the European market.

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## Siguranța produselor nealimentare în Uniunea Europeană. Studiu de caz: România

### Rezumat

*Din anul 1975 - când Rezoluția Consiliului privind programul preliminar al Comunității Economice Europene pentru politica protecției consumatorilor și informațiilor a fost adoptată - și până în prezent, politica privind siguranța consumatorilor s-a dezvoltat continuu, de la legislația generală despre drepturile consumatorilor până la sisteme complexe care asigură siguranța consumatorilor. Lucrarea prezintă sistemul de siguranță al produselor nealimentare (RAPEX) în Uniunea Europeană și analizează modul în care acesta este gestionat în România. Se evidențiază deosebirile existente între notificările transmise de autoritățile române și cele înregistrate de Comisia Europeană. S-au propus câteva recomandări în vederea îmbunătățirii siguranței consumatorilor în Uniunea Europeană, România și, de asemenea, în alte țări.*