



The Safety of the Romanian Non-food Products in the European Community Context

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ABSTRACT

Providing a safe market to the European consumer is a prerequisite of the community and national policies. As a member state of the EU, Romania is trying to catch up with the existing differences in the field of protecting the consumer's interest and safety. Rapid Alert System for dangerous non-food products is an efficient instrument for preventing the dangerous non-food products on the market. The low volume of non-food product exports by the European partners triggers a low number of notifications for autochthonous products. The dependence of the internal market on imports is reflected by a notification structure which is very close to the one reported on community level. A complete analysis of the notifications of dangerous products must consider, besides the volume of sales, the specific of the market where the product will be merchandized.

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1. Introduction

The consumer's protection represents a priority of the European Union. The markets' globalization, the increase of the number of community members, a population of over 500 million inhabitants or the appearance of some new factors represent challenges for the community authorities, which must adopt a flexible and efficient strategy as far as the protection of the community consumer's interests and safety is concerned. The European legislation, based on the principle of precaution, aims at reaching a high and uniform protection of the consumer's health and safety. The creation of some proper systems of product monitoring, mainly based on traceability, is materialized at the community level by the functionality of the Rapid Alert System for Food and Feeds (RASFF), of the Safety System for Dangerous Products (RAPEX) or of other mechanisms of increasing the safety of products and services related to consumption (the safety of medical products, pharmaceutical-vigilance, the safety of internet services). From this point of view, the community area is one of the safest ones for the consumer, due to a mutual policy based on precaution and a totality of specific norms which have led to the creation of some functional mechanisms and to significant progress in terms of consumer's safety. As a member of the EU, Romania must adapt to the community's requirements in this field and must catch up with the major differences registered at the moment of adhering to the community area.

In order to write this paper, the following were used: the official documents of the EU and of Romania in the field of consumer's protection, the European data bases RAPEX and RASFF, and the statistical information provided by the international community or national data bases. The collected information has been statistically processed and properly analysed; the results have been compared to the data from the scientific literature of specialty.

2. Literature review

The main objective of the European legislation is the increased, uniform protection of the consumers' health and safety. The general safety criteria required for the goods aimed to be consumed on the community market define as safe those products "which do not pose any risk or which pose low risks, compatible with the product's use and acceptable in terms of maintaining a high level of protection for the people's health and safety" (Directive 2001/95/CE). In the absence of some community regulations, one applies the national law of the member state on whose market the product is merchandized.

Garcia (2007) gives a presentation of the EC report "2006 Annual Report on the operation of the Rapid Alert System for non-food consumer products" and a presentation of the system's functioning method at community level. According to Ene (2011), who quotes the European law in the field, RAPEX system was created in order to facilitate the market monitoring and to avoid giving for consumption some non-food products which are dangerous for consumers. In his work, Ene made an analysis of the system's way of

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working around the years 2010-2011 and of its implications at European level. Stancu (2012) treats some aspects related to using RAPEX both at community level, as well as in Romania, in 2011, by comparing its functioning to the RASFF system, which is specific to food products. Balasubramaniam (2013), while performing an analysis of the automotive Indian industry, refers to RAPEX and to the recall systems of cars, which are applied in the EU, USA or India. Data from the RAPEX Report (2012) are used by Gănescu, Gangone and Asandei (2015) for checking a multi-factorial model related to the companies' responsibility towards the consumer.

3. General presentation and the functioning of RAPEX

The supervision of the European unique market represents a complex challenge for the community authorities, when considering the large amount of non-food products and services, the dispersion and the number of producers, the different origin of the products and the large number of consumers. The latter want safe products, regardless of the origin. Monitoring the common market, in order to diminish the risk of penetration of some dangerous products, represents one of the concerns of the European authorities, RAPEX being constituted by the Directive 2001/95/CE. The main area of action is the consumer's safety, respectively the merchandizing of some non-food products, safe to be consumed.

Except for food, fodders, medicines/medical articles, RAPEX covers a wide range of products, including the ones merchandized in the context of service providing (clothing and textiles, shoes, furniture, cosmetics, toys and articles for children, appliances, engines, cars, electric devices). The products of professional destination that have migrated to the household field are also included in the monitoring. The main deficiency of the system is that it does not monitor non-food services. However, there is an EU regulation for solving this issue (Directive 2001/95/CE).

The network comprises 31 states (EU 28 countries, Norway, Iceland and Liechtenstein). The system consists of an application on the internet, used as an instrument of communication for the member states which use the application in order to prepare and send notifications and reactions through the system. For the interested persons, there is a public section, especially aimed for this purpose (National Agency for Consumer Protection - NACP, 2009). The schematic functioning of the network is presented in figure 1.

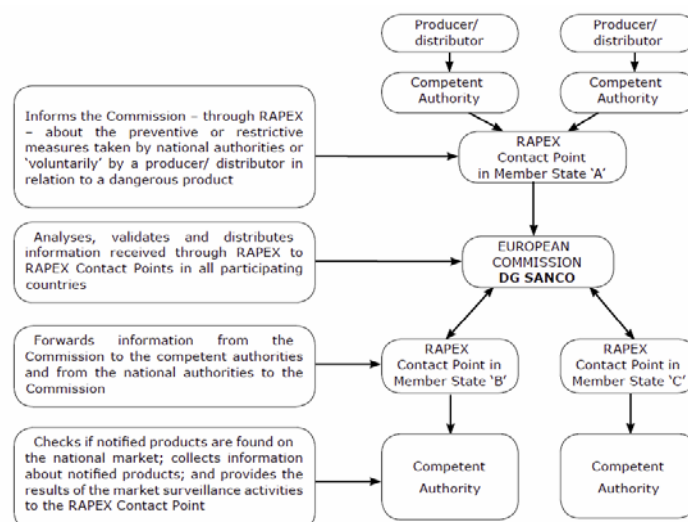


Figure 1. RAPEX Network

(Source EC, RAPEX Report 2009)

When detecting a dangerous product on the market, with a high risk (aimed at the direct consumption or which may be directly used by the consumer, although it was not conceived for this purpose), the national authorities must take the necessary measures and notify EC through the RAPEX network. According to the definition of 2010/15/EC (2010) the meaning of considerable risk is „the one which requires rapid intervention by the public authorities, and includes risks of which the effects are not immediate”. The main responsibility on informing comes to the producer/importer/distributor. Producers must give relevant information to the consumers, which allow the evaluation of the inherent risks of a product throughout the usual usage period or which can be reasonably foreseen. The member states notify both dangerous products for which they took their own measures, as well as those for which the action was voluntarily taken by the producers/importers/distributors, being responsible for the notification made. The notification is sent by using an official form that gives details on the product's identity/product lot (name, brand, model), the full description/its photo, risks associated to the product (type of risk, results of laboratory tests and risk assessment); measures taken for preventing the consumer's risk (type of measure,

scope, duration, date of entry into force), distribution networks (manufacturer, exporter/importer, distributor and the country of destination). When receiving a notification, the member states must inform the Commission, within the legally allowed time frame, on the following: the situation of the dangerous product, indicating if the product was merchandized on their territory; what measures they might adopt related to the respective product, considering their own conditions, mentioning the reasons, including any different risk evaluation or any other special circumstances that justify their decision, especially the lack of action or follow-up; any relevant additional information that they received related to the involved risk, including the results of any tests or analyses performed (Guide for applying the Directive 2001/95/CE).

According to RAPEX Report (2009) and Directive 2001/95/CE there are 3 types of notifications:

- ◆ RAPEX notifications: “Notification under Article 12: notifications of measures ordered by the national authorities, or actions taken ‘voluntarily’ by producers or distributors in relation to products presenting a serious risk.”, or where appropriate, “Article 12: notification requiring emergency action”.
- ◆ Other information: “Notifications under Article 11: notifications of measures ordered by the national authorities in relation to products presenting a moderate risk”
- ◆ Notifications ‘for information’: notifications of measures ordered by the national authorities, or actions taken ‘voluntarily’ by producers or distributors in relation to dangerous products, disseminated for information purposes only due to insufficient product identification”.

At the moment when a product is identified as being dangerous, the usual measures aim at forbidding its sale (sales bans), withdrawing it from the market (withdrawals of dangerous products from the market), recalling dangerous products from consumers and sending warnings to the European partners. The recent optimization of RAPEX allows an efficient identification and a fast banning from the market of the dangerous products. The process involves a series of activities (upstream efforts for detecting the risks at source, a better risk assessment and the close cooperation of the European authorities, especially the customs ones, in order to identify the risks at the entrance points in the community area). In Romania, the entrance point for RAPEX network is NACP.

4. Notifications on products made in Romania

The available data regarding Romania on the RAPEX portal cover the period 2005 (Pre-adhering to the EU) – April 2015. During the 10 years of monitoring, Romania has been notified only 43 times, of a total of 16,614 alerts, mainly for textiles. The evolution of notifications throughout the analysed period is presented in figure 2.

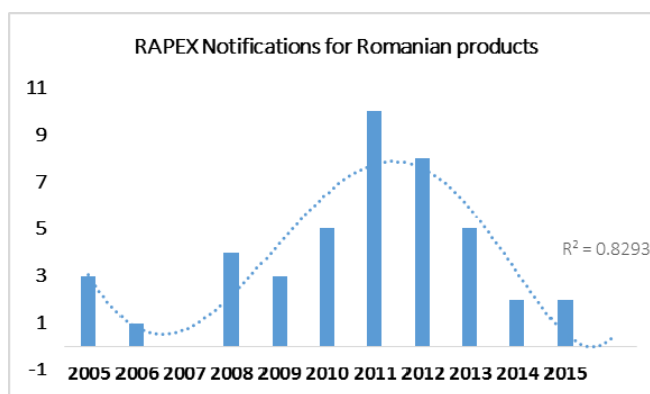


Figure 2. Notifications for Romanian products
(Performed by the author based on RAPEX data)

The maximum number of notifications was recorded in 2011, with 10 notifications, followed by 8 notifications in 2012. In 2007 there was no record of any complaint on the products originating in Romania. Among the originating countries mentioned in the notifications, Romania is on the first place, with 10 notifications, followed by France (7), Hungary (6), and Bulgaria (4). The main products subject to notifications were the textile ones (confections, products for children). All notifications had a high alert level (serious level). An analysis of the measures recommended by the authorities or decided by the producer/importer is presented in table 1.

Out of the total number of notifications received for Romanian products, in 10 cases the producers' action was voluntary (6 corrective measures and 3 withdrawal ones of the products from the market). In a situation when the value of the products was higher (bicycles exported to Belgium), these products were recalled on our own initiative for corrective the damages. Out of the 33 measures made by the authorities, one was of destruction (textile products – bikini exported to Finland, with sewing deficiencies). For the rest of

the cases, it was decided to withdraw the products from the market (22), to forbid selling those (9 cases) or to take corrective actions.

Table 1 Measures adopted by the notifying country

| Voluntary measures | | | Compulsory measures: | | | |
|---|--|--------------------------------------|---|--|----------------------------|------------------------------------|
| Voluntary corrective actions taken by the manufacturer. | Voluntary withdrawal from distribution | Recall of the product from end users | Withdrawal of the product from the market (and recall from consumers) | Sales ban (and withdrawal from the market) | Destruction of the product | Corrective actions by the importer |
| 6 | 3 | 1 | 22 | 9 | 1 | 1 |

(Source Personal contribution based on RAPEX data)

During the analysed period, Romania issued 125 notifications of a high alert level, out of a general total of 16,614 notifications posted on the community network.

The evolution of notifications made by Romania for non-food products existing on the autochthonous market during the analysed period is presented in figure 3.

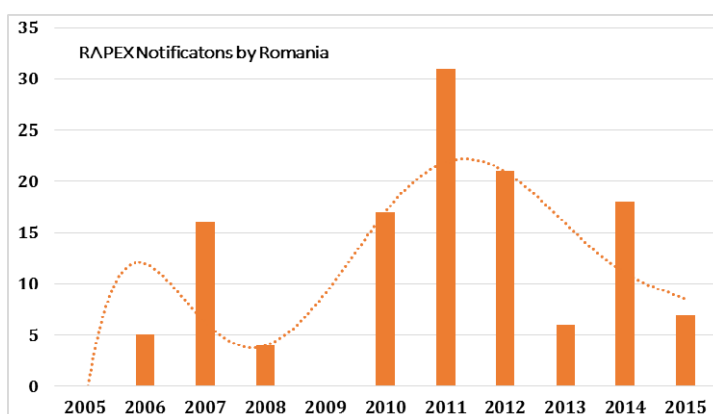


Figure 3. Notifications sent by Romania through the RAPEX network.

(Source EC, RAPEX Report 2009-2014)

The highest level of notifications was registered in 2011 and 2012, with 31 and respectively 21 recordings sent by NACP to the alert community network. In 2005 and 2009, Romania had no legal observation related to the existence of some dangerous products on the market, notified within the RAPEX network. In terms of origin, more than half of the products notified by Romania come from China (77), followed at high distance by products of unknown origin (probably manufactured in China or Turkey) (13 notifications), Turkey (12), respectively Romania (10). The total frequency of notifications for the first positions in the top complies with the average proportions registered at the level of the EU. Some of the EU countries which are the commercial partners of Romania have only had a single notified product (except for Japan, with 3 products).

Table 1 Measures adopted by Romania for notified products (2005- Apr.2015)

| Voluntary measures | | | Compulsory measures: | | | |
|---|---|--------------------------------------|---|--|------------|------------------------------------|
| Voluntary corrective actions taken by the manufacturer. | Voluntary withdrawal from distribution. | Recall of the product from end users | Withdrawal of the product from the market (and recall from consumers) | Sales ban (and withdrawal from the market) | Stop sales | Corrective actions by the importer |
| 1 | 1 | 6 | 55 | 54 | 3 | 5 |

(Source Personal contribution based on RAPEX data)

In most of the cases, mandatory measures were taken by NACP, the national authority in this field, aiming at the withdrawal from the market, with or without stopping the sales, or requesting some corrective measures to the importer. In 8 out of the 125 notified cases, voluntary measures were taken by importers or producers, with the purpose of withdrawing them from the market, taking corrective actions or recalling the products from the users.

A comparative analysis of RAPEX notifications on products must include Romania's intra-community trade. The graphic representation of Romania's commercial exchanges with the countries that had the

greatest number of notifications related to Romanian products is presented in figure 4. According to the official statistics of INS (2015) on the external trade of Romania, during 2009 and 2013, the three countries sent to RAPEX network an equal number of 4 notifications each, regarding Romania, although the goods exchanges have values altogether different. The analysis presented emphasizes that the value of commercial exchanges does not influence directly the level of notifications, the latter being the result of the range of goods subject to trade.

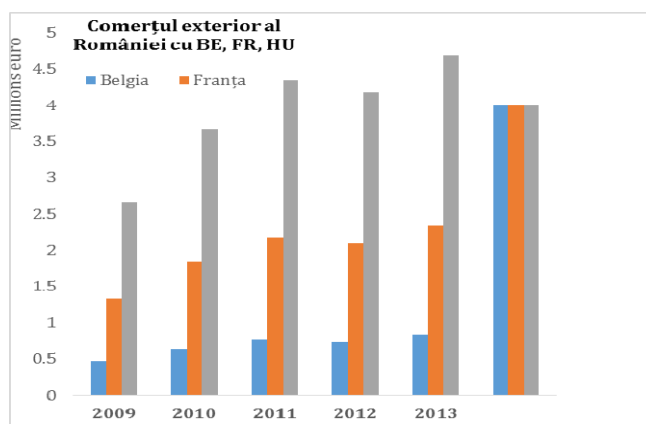


Figure 4. The external trade of Romania - to Belgium (BE), France (FR) and Hungary (HU) (million euro)
(Source NIS, 2015)

Romania's exports of textiles to the 3 countries graphically, represented in figure 5 do not give relevant information on the cause of notifications.

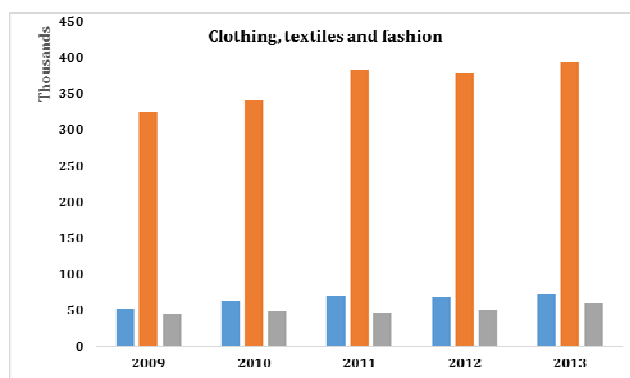


Figure 5. Romania's trade of clothing and textiles - BE, FR, HU
(Source NIS, 2015)

The two hypotheses under analysis emphasize that a partial analysis (for example the volume of sales and the value of exchanges of certain products frequently notified as dangerous at the level of the community market) cannot be considered as relevant for identifying the cause. The analysis of the notification history would be also necessary.

5. The cooperation between RAPEX and NACP

Just like in the case of the other member states of the EU, the national authority in the field of consumer's protection NACP is the national point of contact of the Romanian network. According to the Directive 2001/95/CE regulating the functioning of RAPEX, NACP is obliged to notify, by this system, the European Commission, regarding the products of severe risk, as well as the ones of immediate risk, identified on the Romanian territory. The national point of contact receives notifications from the European Commission related to the products which have high risk, to the potential danger involved and the measures that were taken by the country which reported the incident. In order to facilitate an alternative solution for solving the disputes appeared between the consumers and the economic operators within the field of cross-border trade, The European Centre of Romanian Consumers was founded. It is integrated into the community network of consultancy.

6. Conclusions

The creation and functioning of the Safety System for Dangerous Products RAPEX represents a great support within the context of community policy in the field of safety protection. The functionality of the system is reinforced by the high number of notifications and by the decrease of the incidents caused by the dangerous non-food products. As a community member state, Romania attends to the RAPEX activity by the intermediary of NACP. The European Union has provided the national authority with the necessary means for standardizing the measures in the field of consumer's protection. The low number of RAPEX notifications for the autochthonous products existing on the community market is the result of the low volume of exports of non-food products, Romania mainly exporting agro-food products. Percentage wise, the level of notifications for non-food products merchandized on the Romanian market is close to the European average, which proves that the internal market depends on imports.

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