

General Product Safety Regulation

2021/0170(COD) - 30/06/2021 - Legislative proposal

PURPOSE: to revise existing legislation on general product safety (GPSD) to ensure that EU consumers are protected from dangerous products.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive 2001/95/EC on general product safety, in force since 2001, ensures that only safe products are sold on the EU single market. However, too many unsafe products still circulate on the EU market, creating an uneven playing field for businesses and an important cost for society and consumers.

The rules need to be updated to:

- ensure the EU legal framework provides for general safety rules for all consumer products and safety risks, including those linked to new technologies;
- address product safety challenges in the online sales channels;
- make product recalls more effective and efficient to keep unsafe products away from consumers;
- enhance market surveillance and ensure better alignment of rules for harmonised and non-harmonised consumer products and;
- address safety issues related to food imitating products.

IMPACT ASSESSMENT: the preferred option should: (i) decrease the estimated consumer detriment by approximately EUR 1 billion in the first year of implementation of the preferred option and by approximately EUR 5.5 billion over the next decade; (ii) reduce consumer detriment related to ineffective recalls by more than EUR 400 million per year.

CONTENT: the proposed Regulation aims to revise Directive 2001/95/EC on general product safety to ensure that only safe products are placed on the internal market and to guarantee a high level of safety and consumer protection in a world reshaped by digitalisation and the COVID-19 pandemic.

More specifically, it:

- provides a **'safety net'** for all products falling under its scope of application establishing requirements to ensure the safety of consumer products and therefore the safety of consumers;
- provides rules on the application of this Regulation to the non-harmonised legislation;
- introduces the **general safety requirement**, confirms the importance of standards published in the EU Official Journal as providing presumption of safety and updates aspects for assessing the safety of products to take into consideration **food-imitating products** in the risk evaluation. New aspects for assessing product safety also include the possible risks related to products based on new technologies;

- introduces the **general safety requirement** and **updates the aspects of product safety assessment** to take into account food-imitating products in the risk assessment, as well as products based on new technologies;
- defines the obligations of **economic operators** to ensure product safety and extends the concept of the person responsible for market surveillance and product compliance to non-harmonised products. This is a necessary condition for making products available on the market in order to tackle the issues of direct imports from third countries;
- examines the role played by online marketplaces and provides clarification on how the legislation would apply to the risks posed by new technologies and online sales;
- adapts the provisions on market surveillance with a view to creating, as far as possible, a single regime for harmonised and non-harmonised products;
- contains the basic provisions on **traceability** and the possibility, in the case of products susceptible to pose a serious risk to people's health and safety, to adopt a more stringent system of traceability, to be adopted by a delegated act;
- lays down the principle for exchanging information in the case of a dangerous product and changes the name of the **RAPEX system to Safety Gate**, while maintaining the same characteristics of the system. The proposal adds more specific deadlines;
- provides the possibility for the Commission to adopt measures, through implementing acts, in case of a serious risk which cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned or by any other procedure under EU legislation. This possibility already exists in the GPSD: the proposed regulation makes its scope of application more precise;
- introduces a **voluntary arbitration mechanism** where Member States can submit to the Commission questions concerning the identification or the level of a risk linked to a product in case of diverging risk assessments. This will make it possible to take more uniform action at EU level against dangerous products;
- confirms the obligation for the Commission and Member States to make available to consumers **information** relating to risks to health and safety posed by products;
- sets the obligation for Member States to give consumers the opportunity to submit complaints to the competent national authorities;
- provides the legal basis for the Commission to establish forms of cooperation to improve product safety. These include common enforcement actions, technical support, exchange of officials, and the exchange of information on dangerous products and in particular information contained in the Safety Gate;
- provides in particular for a system of **penalties**: while recognising that establishing penalties is a national competence, it sets out guiding principle for penalties, in particular criteria for setting penalties, the types of infringements to be penalised, criteria on maximum ceilings, as well as the possibility to impose periodic penalty payments.

Budgetary implications

The proposed regulation requires the Commission to support and facilitate the cooperation of market surveillance enforcement authorities, including coordinated market surveillance activities, the new arbitration mechanism and peer reviews. It also provides for the adoption of implementing acts and

delegated acts (related to traceability and recalls) and possible higher standardisation activity through a simplified standardisation procedure. This will trigger additional workload for the Commission, estimated at four extra full-time officials (three administrators and one assistant). These resources will be obtained through the redistribution and refocusing of the existing personnel's tasks.

The Commission will also finance electronic interfaces, namely the Safety Gate webpage, the Safety Gate portal (which provides notifications of dangerous products) and the Safety Business Gateway collecting notifications from economic operators to market surveillance authorities.

Additional costs for these coordination activities and electronic interfaces can be covered by the single market programme under the current multiannual financial framework 2021-2027.