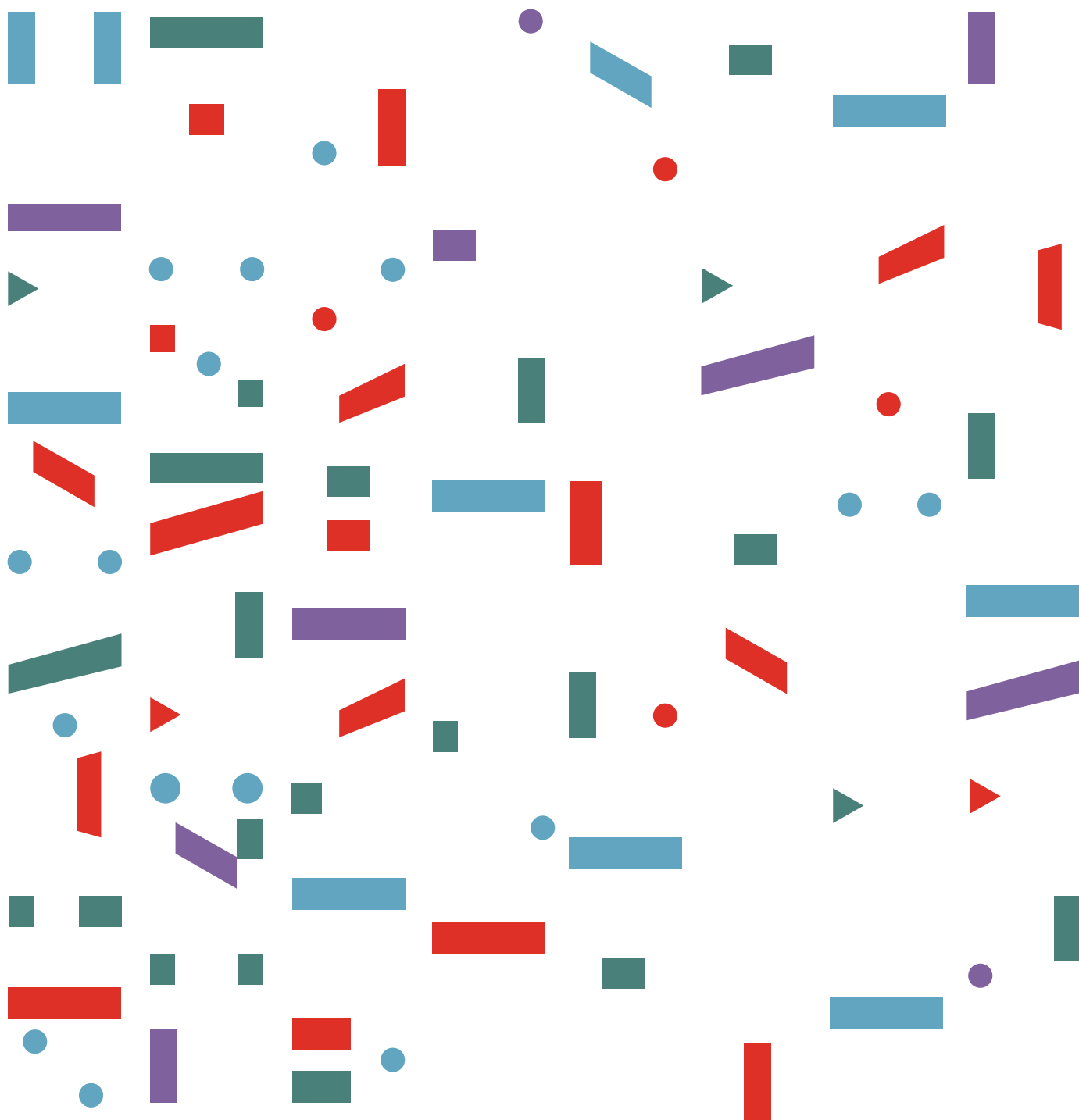




Office of Competition and Consumer Protection

REPORT ON UOKIK ACTIVITIES IN 2022



PAPER 100%
RECYCLING

REPORT ON UOKIK ACTIVITIES IN 2022

Warsaw 2023



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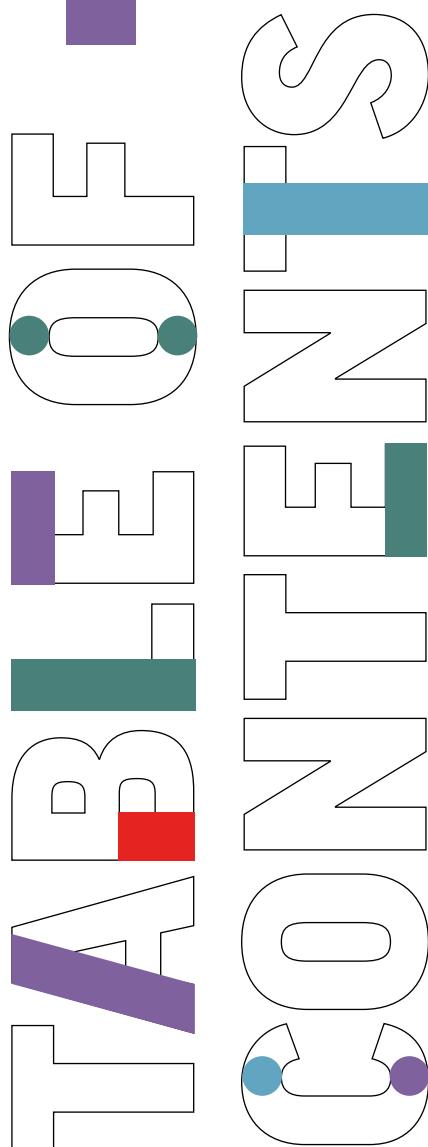
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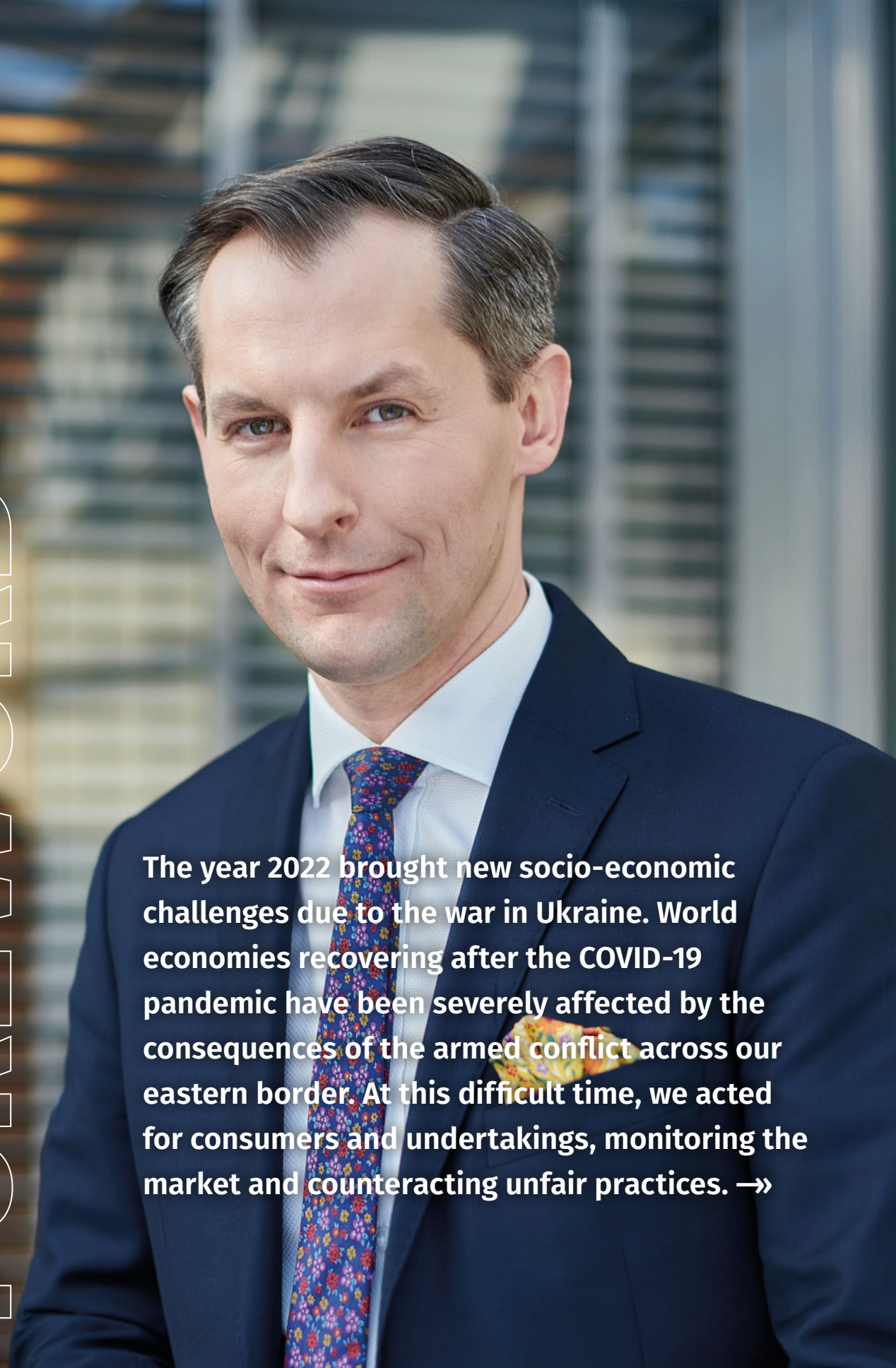
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FORWARD

A portrait of a middle-aged man with short, dark hair, smiling slightly. He is wearing a dark blue suit jacket, a light blue dress shirt, and a colorful floral tie. The background is a blurred cityscape with tall buildings.

The year 2022 brought new socio-economic challenges due to the war in Ukraine. World economies recovering after the COVID-19 pandemic have been severely affected by the consequences of the armed conflict across our eastern border. At this difficult time, we acted for consumers and undertakings, monitoring the market and counteracting unfair practices. →»

We were committed to developing and notifying government programmes for the provision of state aid related to the consequences of war. By protecting the Polish economy, we have counteracted practices contributing to the creation of payment gridlocks. We have also completed work on amending the legislation to make our work in this area more effective. In addition, we have instituted proceedings on the imposition by large retail chains of sales-related fees on suppliers of agri-food products. In a special market research report, we indicated which practices may constitute an unfair use of contractual advantage.

The year 2022 was also marked by an important competition protection solution in e-commerce. The President of UOKiK issued a decision on the largest and most popular commercial platform in Poland, which favoured its online store at the expense of competing sellers using this platform. The issue is part of a larger international discourse about effective protection of competition in the context of development of the digital economy. In 2022, we also observed a further increase in investigations into mergers and acquisitions analysed by the Authority in terms of their market impact.

In the face of an uncertain and volatile reality, we have stepped up our action in relation to the financial sector. In addition to the continuation of existing proceedings, we responded to new threats. We took action to address consumer complaints about the way banks handle cases concerning unauthorised transactions. Market interventions were accompanied by a nationwide public awareness campaign warning against phishing attempts and theft of money from accounts. Moreover, our actions towards banks allowed us to eliminate practices that could hinder the use of government measures for borrowers.

One of the main areas in 2022 was online consumer protection. We have completed our work on the preparation of legislation to increase transparency in online shipping and we have taken action against undertakings posting false opinions on products and services. Importantly, we have significantly changed a rapidly growing segment of the advertising market – influencer marketing. We also challenged practice of e-commerce undertakings who use knowledge about consumers' behaviour to influence their purchasing decisions ever more frequently in an unfair way, including the so-called dark patterns.

Our educational projects have been recognised by the Financial Education Board – for the online fraud simulator and impact on the development of financial literacy in the Polish society, as well as by Internet users – for the #OznaczamReklamy [“I Tag Ads”] campaign, we received the NOIZZ Change 2022 award in the online category. As every year, we carried out a number of inspections of undertakings, products, and services in cooperation with the Trade Inspection. Once again, we are among the leaders of the EU Rapid Alert System for dangerous non-food products (Safety Gate/RAPEX).

These activities are only part of UOKiK's activity aimed at ensuring appropriate conditions for the functioning of the Polish economy – protection of competition and protection of consumer interests and safety. For more information, I cordially invite you to read the annual report.



Tomasz Chróstny
President of the Office of Competition and Consumer Protection

TRANSFORMATION INFORMATION KEY



WHO ARE WE?

President of the Office of Competition and Consumer Protection is a central governmental authority responsible for making and implementing competition and consumer protection policies in Poland¹.

The Office of Competition and Consumer Protection ensures the implementation of the Authority's tasks. The institution's activities are financed from the state budget.

The mission of the Office is to increase consumer welfare through effective protection of consumers' interests and to promote the development of competition while respecting the principles of openness and dialogue with market participants.

WHAT WE DO?

The tasks of the President of UOKiK focus on ensuring appropriate conditions for the functioning of competition, as well as protection of consumer interests and safety.

MANAGEMENT

President of UOKiK: Tomasz Chróstny
(in office since 27 January 2020)

Director-General: Katarzyna Prus-Stachyra
(in office since 1 September 2020)

¹ Systemic issues are regulated in the Competition and Consumer Protection Act of 16 February 2007 (Journal of Laws of 2021, item 275, as amended).

Areas of activity of the President of UOKiK

Competition protection

- combating anti-competitive practices used by undertakings (prohibited agreements and abuse of a dominant position)
- control of undertaking concentration
- monitoring aid granted by the state
- eliminating practices involving an unfair use of contractual advantage
- counteracting payment gridlocks (excessive payment delays in commercial transactions)

Consumer protection

- eliminating practices infringing the collective consumer interests and abusive clauses in model contracts
- supervising the Trade Inspection
- carrying out market surveillance and ensuring the safety of non-food products
- monitoring the out-of-court consumer dispute resolution system
- financing consumer advice through helpline and e-advice
- advising in cross-border issues provided by the European Consumer Centre

Market research

Drafting of legal regulations

Information and educational activities

International cooperation





BUDGET: PLN 125.5 MILLION²

DECISIONS: 953

including:

376 related to competition protection

577 related to consumer protection

FINANCIAL PENALTIES

imposed by the President of UOKiK:

PLN 428.4 MILLION

including

over **PLN 241 million** for competition-restricting practices

over **PLN 80 million** for practices infringing collective consumer interests

PLN 22.1 million in relation to the recognition of model contractual clauses as abusive

PLN 70.9 million for unfair use of contractual advantage

PLN 10.9 million for causing payment gridlocks

PLN 774.5 thousand for violations in connection with the Act on Conformity Assessment and Market Surveillance Systems

PLN 380 thousand in relation to the general product safety

PLN 944 thousand for failure to provide information / provision of false / misleading information

PLN 700 thousand for failure to cooperate in the course of inspection/search

PLN 60.1 thousand for failure to enforce / delay in the enforcement of the decision

PLN 460 thousand for managing persons

FINANCIAL PENALTIES

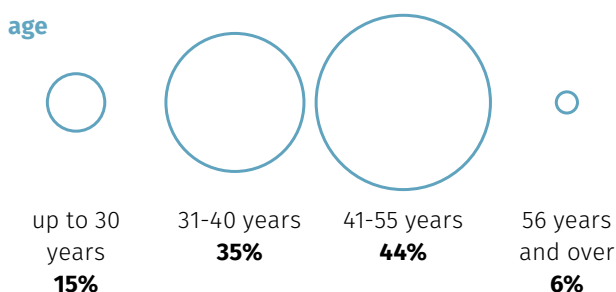
paid by undertakings:

PLN 117.9 MILLION³

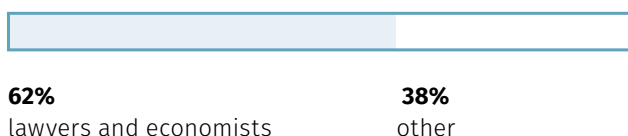
EMPLOYMENT STRUCTURE⁴

number of employees: 604

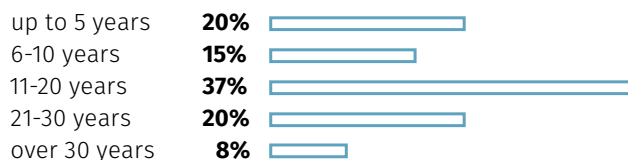
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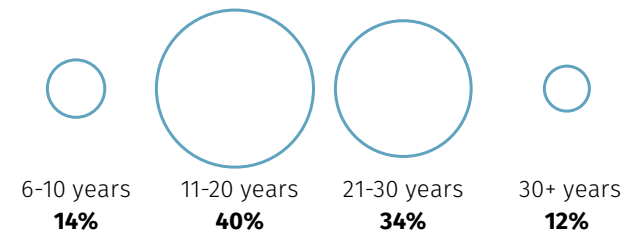
education



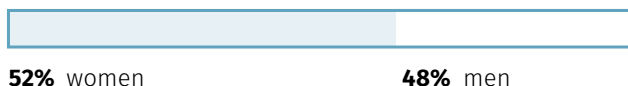
total seniority



seniority – senior positions⁵



sex – senior positions



ORGANISATIONAL STRUCTURE⁶

Offices

Executive Office
International Cooperation Office
Office of Human Resources, Training, and Organisational Affairs
Finance Office
Administration Office
IT and Security Office

Departments

Department of Competition Protection
Department for Bid Rigging Prevention
Department of Concentration Control
Department of State Aid Monitoring
Department of Contractual Advantage
Department for Combating Payment Gridlocks
Support Department for Combating Payment Gridlocks
Department for Analysis Development
Department of Protection of Collective Consumer Interests
Department of Trade Inspection
Department of Market Surveillance
Department of Laboratories
Department of Market Analyses
Department of Legal Affairs
Department of Communication

Branch Offices

Branch Office in Bydgoszcz
Branch Office in Gdańsk
Branch Office in Katowice
Branch Office in Kraków
Branch Office in Lublin
Branch Office in Łódź
Branch Office in Poznań
Branch Office in Wrocław

² Budget implemented in 2022.

³ Penalties resulting from final decisions of the President of UOKiK, including those made before 2022.

⁴ As at 31 December 2022.

⁵ Directors and Deputy Directors.

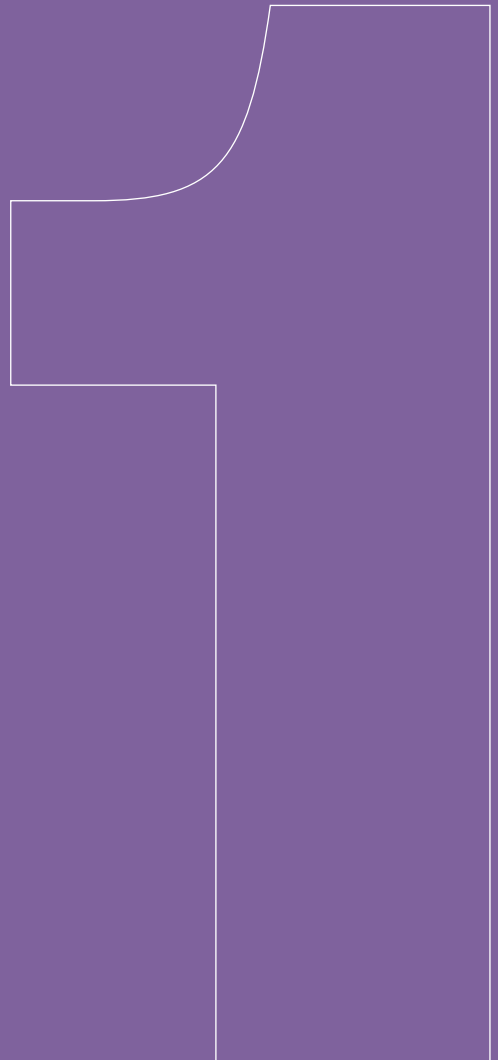
⁶ As at 31 December 2022.

1.1
Competition-restricting
practices

1.2
Concentration control

1.3
State aid

COMPETITION PROTECTION



1.4.
Contractual advantage

1.5.
Payment gridlocks



1.1 COMPETITION-RESTRICTING PRACTICES

The President of the Office of Competition and Consumer Protection is responsible for effectively responding to practices of undertakings that violate competition rules and for promoting solutions aimed at increasing fair competition on the market. Free and effective competition has a positive impact on the efficiency of the economy and is in the interests of undertakings and consumers.

Competition-restricting practices include anti-competitive agreements and abuse of a dominant position. The law prohibits undertakings from making any arrangement the purpose or effect of which is to eliminate, restrict or distort competition. Prohibited agreements may, in particular, include price fixing (price collusion), bid rigging agreements (tender collusion), market allocation by territory, commodity, customer groups, or exchange of confidential information. Agreements incompatible with competition rules can be made both by competitors and undertakings operating on different levels of the market. Meanwhile, abuse of a dominant position consists in the actions of an entity that has a substantial market power which enables it to take actions independently of its competitors, counterparties, and consumers, and leads to the disruption of competition in the market. It may involve, for example, imposing unfair prices, eliminating competitors, or blocking new entrants.

In order to eliminate competition-restricting practices, the President of UOKiK conducts administrative proceedings. Preliminary investigation is launched in relation to a suspected violation of antitrust law. They are conducted with regard to a specific matter, not against any specific entity. If the collected material confirms the Office's suspicion, they may result in the initiation of antitrust proceedings for competition-restricting practices and in the formulation of charges against a specific undertaking and, in some cases, also against a managing person or persons. Before a decision

is issued, the President of UOKiK may present a party to the proceedings with a detailed justification of allegations and enable the party to respond to the Office's findings.

The proceedings may result in a cease and desist letter concerning the abusive practices and in the imposition of a financial penalty on the undertaking. The competition protection law also provides for 2 conciliatory solutions – voluntary submission to penalty and the President's decision obliging the undertaking to take specific action. Another opportunity to reduce and sometimes avoid financial penalties is the leniency programme. It is available to undertakings involved in illegal arrangements and managers responsible for the collusion. The condition is to cooperate with the President of UOKiK as a "crown witness" and to provide evidence or information about the existence of prohibited agreements.

As part of or in addition to ongoing proceedings, the President of UOKiK may call upon the undertaking to provide explanations, change or cease unfair practices – these are the so-called soft calls. Moreover, in order to gather information that may serve as evidence in the case, the Office conducts inspections and searches at business premises.

UOKiK diversifies sources of obtaining information and methods of detecting infringements. UOKiK monitors the market for competition-restricting practices and analyses

HOW TO REPORT a breach of competition law to UOKiK? What information will be helpful?

More at:
konkurencja.uokik.gov.pl



information obtained directly from consumers and undertakings. Breaches of competition law may be reported to

the Authority in writing (e-mail, formal notice), by phone or **anonymously via Whistleblower Platform**.

NEW COMPETITION PROTECTION PROCEEDINGS in 2022

24

preliminary investigations

4

proceedings imposing a fine⁷

7

proceedings instituted on **suspicion of violating Articles 101 and 102 of TFEU**:
2 preliminary investigations
5 antitrust proceedings

18

bid rigging agreements:
13 preliminary investigations
5 antitrust proceedings

11

antitrust proceedings⁸
concerning competition-restricting practices,

including:
7 horizontal agreements
4 vertical agreements

COMPETITION PROTECTION DECISIONS issued in 2022

8

decisions in cases concerning competition-restricting practices, of which:

6

concerning horizontal agreements

1

concerning vertical agreements

1

on abusing a dominant position

8

decisions imposing a fine on the undertaking (36 financial penalties amounting to over PLN 241 million)⁹

2

decisions imposing a fine¹⁰

7 Proceedings concerning a financial penalty for non-compliance with or late enforcement of a decision, for failure to provide the President of UOKiK with requested information or for providing untrue or misleading information, or for failure to cooperate in the course of an inspection.

8 In 2022, the President of UOKiK did not institute proceedings concerning abuse of a dominant position.

9 Financial penalties are imposed for a particular practice, and as such, more than one such penalty may be imposed through a single decision.

10 Proceedings concerning a financial penalty for failure to provide the President of UOKiK with requested information or for providing untrue or misleading information.

OTHER MEASURES taken in 2022

2 396

anonymous notifications under the Whistleblower programme

9

searches conducted¹¹ at 30 undertakings

3 leniency applications

274 notifications on anti-competitive practices

431 other signals

52 new soft calls to undertakings¹²

2 inspections carried out¹³ at 8 undertakings

13 detailed justifications of allegations

11 Represents the number of proceedings in which a search was conducted.

12 Concerns calls made on the basis of Article 49a of the Competition and Consumer Protection Act.

13 Represents the number of proceedings in which inspections were conducted at business premises.

DECISIONS with the highest total amount of penalties imposed on undertakings in 2022 for using competition-restricting practices

total penalties: **over PLN 241 million**

PLN 206.2 million

DOK-3/2022

Allegro sp. z o.o.

based in Poznań

1 penalty

for abuse of a dominant position
vis-à-vis competing sellers on the
Allegro.pl platform

**PLN 26.1
million**

RKR-2/2022

Kärcher sp. z o.o. based in Kraków

1 penalty for imposing minimum retail prices
on distributors

RPZ-12/2022

Remondis Sanitech Poznań sp. z o.o. based in

Poznań, **Prezero Dolny Śląsk sp. z o.o.**

based in Wrocław, **Przedsiębiorstwo Usług**

Komunalnych Artur Zys in Środa Wielkopolska,

Eko-Tom Turgata sp. j. based in Bolechowo,

Ordo Poznań sp. z o.o. sp. k. based in Czerwonak,

Przedsiębiorstwo Usług Komunalno-

-Transportowych Wikom Iwona Kubera

and Rafał Kubera sp. j. based in Poznań,

KDS sp. z o.o. based in Poznań

7 penalties for bid rigging agreements

**PLN 7.2
million**

**PLN 1.5
million**

other penalties

**TOTAL AMOUNT OF PENALTIES imposed for the use of
competition-restricting practices from 2020-2022**

PLN 187.2 million
2020

**PLN 129.2
million**
2021

PLN 241 million
2022

Overview of activities in 2022

► **Abuse of a dominant position on the digital services
market**

Allegro has been running the most popular online shopping platform in Poland for many years. It plays a dual role in relations with sellers operating on Allegro.pl. On the one hand, it is a business partner providing a platform to other sellers; on the other hand, it is a competitor of those sellers, since it sells its products through its own online store – The Official Allegro Store (OAS). As part of this activity, the

company quickly became the largest retailer on its platform.

The antitrust proceedings instituted by the President of UOKiK against Allegro confirmed that the undertaking abused its position. In the Authority's view, the company has a dominant position measured by the turnover from all transactions on the Allegro.pl platform and the amount of income from services provided to external entities. The company favoured its own sales activities within the OAS at the expense of other sellers active on the platform who offered identical or similar products. It was able to better position and display its own offers in search results thanks to exclusive access to information on the functioning of its sales platform (including the relevance algorithm) and buyer behaviour. In addition, it benefited from a number of sales and promotional features not available to independent sellers on the platform, which translated into better sales of its own offers.

These activities were detrimental both to independent sellers on Allegro.pl and to consumers themselves, as their ability to search for the offer that suited them best was restricted. The President of UOKiK imposed a fine of over PLN 206 million on Allegro for abusing its dominant position (decision DOK-3/2022) and ordered the company to cease and desist the abusive practices. The decision is not final.

► Breach of competition rules by sports clubs

The completed antitrust proceedings of UOKiK confirmed the allegations against the Polish Basketball League and 16 basketball clubs (decision DOK-1/2022). These entities have entered into a competition-restricting agreement by jointly establishing the rules for cooperation with basketball players and by suspending payment of salaries. During the 2019/2020 season, the clubs agreed with the PBL that due to the early termination of the competition, they will terminate contracts with players, but they will not pay them their salaries for the remainder of the season. They exchanged confidential information in a coordinated manner and opted out of competing for the best players. As a result, they were able to afford to reduce the basketball players' monetary consideration without fearing that the players would move on to other clubs in the following season because of this. The President of UOKiK imposed fines in the total amount of nearly PLN 1 million on the participants to the abusive agreement. The decision is not final.

In 2022, the Authority also continued its activities related to the practices of the organisers of speedway races in Poland. Antitrust proceedings have been instituted against the Polish Automobile and Motorcycle Federation in connection with a suspicion that these entities have entered into a competition-restricting agreement. The President of UOKiK had reservations about the organisational regulations adopted by these entities, which provide for maximum salaries which sports clubs competing in the speedway league may pay to their riders. As a result, none of speedway league clubs can offer speedway riders higher rates than those agreed upon in the regulations and thus compete for the best athletes.

► Price fixing

Price fixing between counterparties operating on different levels of the market are among the most serious violations of competition. An example of such actions was the multiannual imposition of minimum retail sales prices for Kärcher cleaning equipment and systems on distributors. According to the evidence gathered by UOKiK, Kärcher was fixing product prices in agreement with its sales networks for both stationary and online sales. Distributors had the right to shape them only under the conditions set by that undertaking, which led to a restriction of competition on the market. As a result, the purchasers of Kärcher products could not buy them cheaper than at the top-down prices. Undertakings which sold products at lower prices were penalised by having their discounts taken away,

UOKiK'S ACTIVITIES

Over PLN 206 million

it is the highest penalty imposed on a undertaking

WHISTLEBLOWER PROGRAMME in 2020-2022

Number of anonymous notifications under the Whistleblower programme

2020:	506	<div></div>
2021:	547	<div></div>
2022:	2 396	<div></div>

The number of anonymous notifications increased more than quadrupled compared to 2021. Anonymous notifications serve as the basis for the Authority to eliminate breaches of competition law from the market. The notifications from current or former employees of companies involved in illegal arrangements are particularly valuable. Sources of publicly unavailable information include e.g. meeting notes, calendar data, price lists, correspondence (e-mails, letters, instant messaging or text messages).

Notifications may concern: illegal agreements (e.g. price fixing agreements) between competitors, bid rigging agreements between participants of public procurement procedures, agreements, e.g. between manufacturers and distributors, cases of abuse of a dominant position by undertakings. Notifications may be submitted via e-form and the system guarantees protection and full anonymity to applicants, including from the Office itself.

being deprived of marketing support and in extreme cases, having their cooperation agreements terminated. Some of the sellers were actively involved in disciplining the rest of the entities by informing Kärcher about lower prices. For involvement in a competition-restricting agreement, the President of UOKiK imposed a financial penalty on the undertaking in the amount of over PLN 26 million (decision RKR-2/2022). The sanction was significantly reduced due to the fact that the company cooperated with the Authority under the leniency programme. The decision is not final.

► Bid rigging agreements

Bid rigging agreements are agreements between undertakings tendering for a contract or these undertakings and the organiser concerning the terms of bids submitted, in particular the scope of work or the price. Such agreements tend to lead to distortion of competition in the market, thereby affecting the general public interest.

The President of UOKiK instituted 18 proceedings concerning bid rigging agreements – 13 preliminary investigations and 5 antitrust proceedings and issued 5 decisions in this regard.

The highest penalty for participating in a bid rigging agreement amounted to over PLN 7 million (decision RPZ-12/2022) and was imposed on 7 undertakings dealing with, among others, waste collection. Their consortium consisted of the following companies: Remondis Sanitech Poznań, Prezero Dolny Śląsk, Przedsiębiorstwo Usług Komunalnych Artur Zys, Eko-Tom Turguła, Ordo Poznań, Przedsiębiorstwo Usług Komunalno-Transportowych Vikom, and KDS. Together, these entities took part in 15 tenders for the collection, transport and management of municipal waste in all sectors for the years 2018-2022 organised by the Poznań Metropolis Association. In most cases, a consortium of 7 undertakings won, and having been awarded the contract, the individual companies continued to operate independently in the area they had covered in previous years. The UOKiK's antitrust proceedings revealed that the consortium was set up to elude competition in tender procedures. Companies were able to bid for the same contracts separately or by forming partnerships with fewer partners. The decision is not final.

The Authority suspected that several undertakings supplying hydraulic quick couplings for rail vehicles also entered into a bid rigging agreement. The antitrust proceedings showed that Staubli Łódź and a person running a business under the name Firtech set terms of bids submitted in 4 public contracts organised between 2018 and 2019 by Tramwaje Warszawskie. Each time, these entities agreed on their price offers in such a way that Firtech's offer would always be more advantageous than Staubli's offer and it guaranteed that Firtech would be awarded the contract from Tramwaje Warszawskie. Moreover, Staubli had been vested with exclusive rights to supply quick couplings to Firtech for the purposes of ongoing tenders. The final form of the decision of the President of UOKiK and of its sanction was influenced by the fact that Staubli filed a leniency application. It provided direct evidence in

UOKiK'S ACTIVITIES

2 decisions on the basis of the leniency procedure

the form of e-mails describing the scheme for fixing quick coupling prices by the two undertakings. Firtech was fined over PLN 140 thousand, while Staubli – as the leniency applicant – avoided the fine altogether. The decision (RŁO-8/2022) is not final.

The President of UOKiK also issued a decision (RWR-1/2022) concerning a prohibited agreement concluded by 2 undertakings: Zwyż – Dźwig and FHU Berger in 3 tenders for greenery maintenance in Lubuskie and Dolnośląskie voivodeships conducted between 2016 and 2019. As shown by the UOKiK's antitrust proceedings, the undertakings agreed on the terms of offers and took action leading to the selection of the bid with a higher price, thus influencing the result of public procurement. Their practice involved the submission of incomplete bids, and afterwards, depending on the order of bids in the ranking, they had decided to supplement them. They managed in this way to have a more expensive offer selected on 3 occasions – in 2 cases the contract was completed, and in 1 case the organiser cancelled the tender, suspecting abusive practices. The total sanction imposed on the undertakings amounted to over PLN 100 thousand. The decision is not final.

Other decisions on bid rigging:

- decision RGD-12/2022 – local forest management market – 3 undertakings were fined over PLN 18 thousand,
- decision RKR-3/2022 – local services market: transport of children to schools, transport of children with disabilities to care and educational institutions and replacement bus service – 2 undertakings were fined over PLN 302 thousand.

► Market allocation for IT infrastructure products

The antitrust proceedings instituted by the President of UOKiK concern Dell sp. z o.o., which may have entered into a competition-restricting agreement with its business partners. This undertaking does not sell its Dell- or Dell EMC-branded IT infrastructure products on its own, but through a network of authorised distributors. The Authority suspects that there may have been market allocation in this case in which Dell would allocate orders to

UOKiK'S ACTIVITIES

5 decisions

on bid rigging

18 proceedings,

concerning, among others:

- supplies of bellow gas meters to Polska Spółka Gazownictwa,
- provision of public bus transport services to the Metropolitan Transport Authority in Katowice,
- construction or reconstruction of the elements of the power grid infrastructure for PGE Dystrybucja,
- local markets for student transport to schools in the municipalities of the Warmian–Masurian Voivodeship,
- construction of water supply and sanitary sewage system in Piekary Śląskie.

DEVELOPMENT of bid rigging detection system

UOKiK is working on the development of bid rigging detection systems **using statistical analysis methods**. The database will consist of information on ongoing procurement procedures collected in the e-Procurement system managed by the Public Procurement Office. The purpose of the analyses is to detect certain correlations in submitted bids (e.g. their rotation), which may indicate an increased risk of collusion between the tendering economic operators. The Authority will also participate in the work of the European Commission to develop a similar solution to be used by antitrust authorities in EU Member States.

specific dealers – distributors for further resale of equipment to end customers. As a result, companies and institutions may have been deprived of an opportunity to choose cheaper, more competitive products of these brands.

► Price fixing and market allocation for electronic monitoring equipment

According to the information gathered by UOKiK, among others during the searches, Dahua Technology Poland, one of the largest manufacturers of electronic monitoring equipment in Poland, may have entered into price collusion and allocate the market among its distributors. The Authority will verify during antitrust proceedings whether the company was able to influence the pricing policies of its business partners by obliging them to apply certain prices, discounts, and promotional terms in the context of resale in brick-and-mortar and online stores. Moreover, there is a suspicion that price fixing may also have taken place at a lower level of the distribution system and the undertaking asked distributors that their business partners apply fixed resale prices for Dahua products. Further, it could monitor whether they comply with its conditions of sale. The second allegation concerns market allocation – in the case of the sale of Dahua products whose value exceeded the price thresholds set by Dahua Technology Poland, the company could grant a selected distributor a higher discount on the purchase of products as well as the so-called design protection. At that time, another distributor could not offer the same customer a competing offer for the same transaction. Charges were brought against 6 undertakings and 7 managers. Moreover, the President of UOKiK issued a decision (DOK-2/2022) imposing a fine of PLN 700 thousand on Dahua Technology Poland for obstructing a search that took place at business premises when the preliminary investigation was in progress.

► Data exchange between pharmaceutical wholesalers

According to the evidence gathered during UOKiK's searches at the premises of pharmaceutical companies, a competition-restricting agreement may have been concluded between 10 entities – wholesalers and software suppliers. The President of UOKiK instituted antitrust proceedings against the following companies: Farmacol ITB, Farmacol, Farmacol Serwis, Farmacol-Logistyka, Farmateka, Kamsoft, Neuca, Polska Grupa Farmaceutyczna, SoftForYou, and Świat Zdrowia. The main allegation concerns anti-competitive exchange of commercial information, including price lists, discounts, margins. To obtain competitor data, the wholesalers may have used software installed in pharmacies, which was provided by specialised companies that have also been charged. The contested practices may

have affected fair competition between these operators and led to higher prices for consumers in pharmacies.

► UOKiK's interventions in the automotive market

Prohibited arrangements for the sale of KIA cars may have been made by KIA Polska together with 10 dealers of its vehicles and 6 executives at AS Motors Classic, Landcar, Marvel, Wrobud, and KIA Polska. The anti-competitive practices were indicated by evidence obtained by UOKiK, among others, during searches at business premises. The President of the Office instituted antitrust proceedings against them on suspicion that they had entered into an agreement consisting of market allocation and price collusion between themselves. The practice could be that individual distributors were selling cars only to customers who lived or ran their business in a location closest to their car showroom. In addition, the dealers and KIA were also able to fix prices – in their correspondence with customers, they pointed to the coherent, network-standardised prices as well as top-down discount groups defined in KIA Policy. As a result, buyers may have been deprived of the capacity to freely choose a seller who would give them the best price.

The President of UOKiK also made other interventions in the automotive market. One of them concerned practices applied by Polish sellers of new passenger cars in relation to warranty repairs. UOKiK carried out market research to determine whether 14 importers required buyers to have their technical inspections carried out only at approved repairers on pain of losing their warranty. This type of practice could be considered as a competition-restricting agreement between importers and approved repairers (ASO) with adverse effects to both car buyers and independent repairers. Doubts were raised about the actions of importers of 5 brands: Ford, Nissan, Citroen, DS, and Peugeot. After UOKiK's intervention, the undertakings have changed their practices and will allow for repairs also to be carried out by independent repairers, as long as they are performed in accordance with brand standards.

► Price fixing on coal sale

Przedsiębiorstwo Wielobranżowe Atex may have imposed on its business partners the prices for reselling coal in 8 voivodeships. The Company mainly deals with the import, distribution and wholesale and retail sale of hard coal. It sells products on its own or through a partner network operating as intermediaries. According to the information obtained, this form of cooperation may be a method of restricting genuinely independent

UOKiK SEARCHES between 2017 and 2022



Since 2017, the number of searches conducted by UOKiK has remained high – around 8 searches per year. This is an important indicator of the Authority's activity in terms of competition protection. The **searches are a source of high-quality evidence** enabling the President of UOKiK to institute proceedings. In recent years, the Office has **expanded its search capabilities**, including by retrofitting its IT equipment, creating a separate search coordination unit and hiring additional computer forensics investigators.

distributors' freedom to shape their pricing policy. As a result of the company's actions, they may have been deprived of the ability to offer potential customers cheaper heating fuel for their homes at prices other than the prices set top-down by the company. On this basis, the President of UOKiK instituted antitrust proceedings to determine whether the company is engaged in prohibited practices.

UOKiK'S ACTIVITIES

3 decisions on the basis of
national and EU regulations

UOKiK'S ACTIVITIES

Decisions imposing a fine:

- **for failure to provide information**
in the course of the preliminary investigation – undertaking running a business under the name Dom-Bud in Bogatynia – a sanction of PLN 10 thousand (decision RWR-2/2022),
- **for obstructing the search**
in the course of the preliminary investigation – Dahua Technology Poland – a sanction of PLN 700 thousand (decision DOK-2/2022).

1.2

CONCENTRATION CONTROL

The President of UOKiK scrutinises transactions planned by undertakings to ensure that such transactions will not result in effective competition between undertakings on the Polish market being distorted or, in extreme cases, completely eliminated. This applies to business concentration through a merger, the acquisition of control over another entity, the creation of a joint venture, and the acquisition of part of the assets of another undertaking.

The obligation to notify the President of the Office of the intent to concentrate applies to undertakings whose total turnover exceeded 1 billion euro worldwide or 50 million euro in Poland in the year preceding the notification and they do not benefit from any statutory exemptions in this regard.

The President of UOKiK approves the concentration if it will not significantly restrict market competition. Otherwise – he prohibits the concentration of undertakings. Concentration may also be permitted under certain conditions – the so-called conditional approval, as long as the fulfilment of these conditions does not lead to a significant restriction of competition. Meanwhile, the so-called extraordinary approval of a transaction leading to a restriction of competition is granted in cases where the transaction will significantly contribute to economic development or technical progress, or will have a positive impact on the national economy.

If the undertakings proceed with the concentration without the prior approval of the President of UOKiK, they may be fined up to 10 percent of last year's turnover. An entity may be fined up to PLN 50 million if it fails to provide the Office with information during ongoing proceedings or provides untrue or misleading data and information.

Concentration control proceedings consist in the assessment of the potential impact of the transaction on the market, based on information provided in applications filed

by undertakings and the results of market research conducted by UOKiK. The procedure may be conducted in two stages. Most cases concerning concentration, which do not raise concerns regarding their impact on competition, are resolved at stage 1, which lasts up to one month. Stage 2 of the proceedings is initiated for more complex transactions, which require i.a. further market analysis. In that case, the deadline for examining the application is extended by additional 4 months.

In addition to analysing cases which are subject to national legislation, UOKiK also gives its opinion on concentration applications filed with the European Commission with regard to the impact of the concentration on the Polish market and, consequently, the possible application to the national authority to oversee them.



UOKiK'S CONCENTRATION CONTROL activities in 2022

342

new proceedings

327

decisions

including:

326 concentration approval

1 conditional approval

0 prohibition of concentration

317

**decisions terminating
proceedings at stage 1**

10

**decisions terminating
proceedings at stage 2**

OTHER DATA:

3 discontinuation of proceedings by a resolution

21 returned notifications on the intended concentration

12 resolutions on proceedings moving on to stage 2

38 days average duration of proceedings at stage 1¹⁴

283 days average duration of proceedings at stage 2¹⁵

316 proceedings before the EC, reviewed by UOKiK in terms of the impact of concentration on the Polish market

2 preliminary investigations to analyse the market and determine whether there exists notification obligation

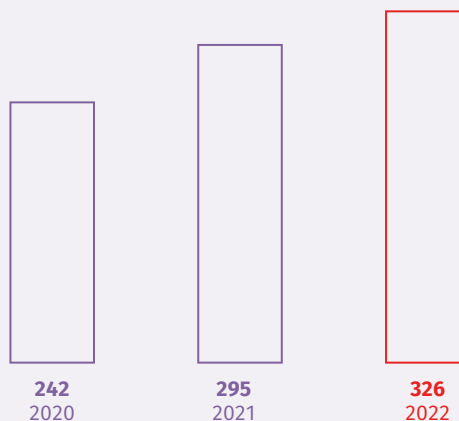
Overview of activities in 2022

CONCENTRATION APPROVALS

► Market for luxury lifestyle magazines for women

Burda Media Polska has obtained the approval of the President of UOKiK to take control of Edipresse Polska (decision DKK-63/2022). Both companies deal with, among others, publishing magazines and selling advertisements in them. According to the case law of the Polish authority, the European competition authorities and the European Commission so far, press publishers have been found to compete with each other on markets for particular types of press. In the course of the proceedings, the Authority carried out a study of the market for luxury lifestyle magazines for women where the activities of the concentration

CONCENTRATION APPROVALS between 2020 and 2022



¹⁴ The actual case review time, including time limits subject to exclusion under Article 96(2) of the Competition and Consumer Protection Act (rounded to a whole day).

¹⁵ The actual case review time, including time limits subject to exclusion under Article 96a(8) of the Competition and Consumer Protection Act (rounded to a whole day).

CONCENTRATION CONTROL PROCEEDINGS instituted between 2020 and 2022



SECTORS of the economy with the highest number of concentration control decisions in 2022

real estate

(including industrial property rental, office space rental, development services, and residential housing sales)

trade

energy

participants overlap. It also analysed the situation in narrower product markets, including celebrity and premium magazines for women. UOKiK also took into account, among others, the volume of paid distribution of these magazines, the revenue from their sale and the sale of their advertising space, as well as dynamic changes affecting press publishers, mainly related to the closure of certain magazines. UOKiK's proceedings showed that the planned concentration will not lead to a restriction of competition, and Burda Media Polska will still have to compete with other publishers for female readers.

► Intermediary services market for online retail sale

The President of UOKiK approved the acquisition by Allegro.pl of control over the Czech companies: Mall Group and WE|DO (decision DKK-69/2022). The former is active in e-commerce in Central and Eastern Europe, while the latter operates in the courier services market in the Czech Republic and Slovakia. Allegro Group operates an online marketplace shopping platform in Poland – Allegro.pl, an price comparison engine – Ceneo.pl, as well as an online ticket sales website for culture, entertainment and sports

– eBilet.pl. Due to the Allegro's position on the Polish e-commerce market, it was necessary to conduct the second stage of the proceedings. It showed that the position would not change substantially on the domestic market and that the situation of consumers will not deteriorate. Consequently, the Authority found that the concentration would not lead to a restriction of competition.

► Pharmaceutical market

The President of UOKiK approved the acquisition by DOZ of control over Europharm (decision DKK-139/2022). The entities involved in this concentration provide pharmaceutical sales services in pharmacies and pharmaceutical outlets. DOZ conducts operations nationwide, with Europharm operating locally through 9 pharmacies located in Lower Silesia voivodeship. According to the notifier, the transaction would affect several local markets dealing with retail sales of pharmaceutical products by pharmacies and pharmaceutical outlets in Wrocław and Legnica. In order to verify this information, UOKiK referred the case to the second stage of the proceedings and conducted market research. The investigation showed that the transaction would not lead to a restriction of competition.

► Airport café market

The President of UOKiK approved the acquisition by Lagardere of control over Costa Coffee (decision DKK-239/2022). The Lagardere Group carries out publishing activities and runs shops and food outlets in shopping centres as well as at train stations and airports. Costa Coffee, in turn, operates a coffeehouse chain in Poland. The operations of both undertakings overlap in terms of operating coffeehouses in Polish towns and cities. In the second stage of the proceedings, the Authority analysed whether the concentration would have an adverse effect on competition in the airport café market where the two companies had a high market share. In response to UOKiK's concerns, Lagardere Group withdrew from contracts with the acquired companies with regard to the operation of airport cafés. As a result, the risk of a restriction of competition disappeared and the concentration could be approved.

CONDITIONAL APPROVAL

► Wholesale and retail market for natural gas

The President of UOKiK has granted conditional approval for the merger of Polski Koncern Naftowy Orlen (PKN Orlen) and Polskie Górnictwo Naftowe i Gazownictwo (PGNiG).

The transaction was originally notified to the European Commission due to the global turnover of the concentration participants. The EC granted the undertakings' application and referred the case to the President of UOKiK after considered that the transaction would affect Polish markets and the national authority would have experience in their assessment. PGNiG is mainly involved in the extraction, import, storage, distribution and sale of natural gas. It is the largest gas wholesaler and retailer in Poland. By contrast, PKN Orlen operates mainly in the refining, petrochemical, liquid fuels and electric power industries. It is the largest recipient of natural gas in Poland and deals with its sale.

In the course of the proceedings, the President of the Office conducted market research covering the competitors of the concentration participants in terms of wholesale and retail sales of natural gas. In addition, he requested the opinion of the President of the Energy Regulatory Office and Gaz System – the gas pipeline operator in Poland. The analyses showed that the current situation on the natural gas market is marked by the strengthening of PGNiG's position and the restriction of operations by the competitors of PGNiG and PKN Orlen on the natural gas wholesale market. Maintaining compulsory reserves by enterprises trading natural gas with foreign entities is a prerequisite for ensuring that such operations can be carried out. Despite the official independence of Gas Storage Poland, the company managing PGNiG's gas storage facilities, the lack of separation of ownership would create an incentive to favour members of its capital group in the operations of Gas Storage Poland. Therefore, after the concentration, there be a risk that the merged entity could restrict access to gas storage facilities to its competitors on the natural gas wholesale and retail markets. At the same time, the investigation showed that a conditional decision could be taken which would have a positive effect on competition. According to the decision issued by the President of UOKiK (DKK-82/2022), the transaction could have taken place on condition that Gas Storage Poland, which manages PGNiG's gas storage facilities, is sold. By separating the ownership of storage facilities from their management, the accessibility of this infrastructure to third parties, i.e. the competitors of PGNiG and PKN Orlen, will increase. This should create favourable conditions for increased natural gas imports by these operators.

RESERVATIONS ABOUT RAIL MARKET CONCENTRATION

► Rail market

In cases where there are reasonable grounds to believe that the concentration will result in a restriction of competition, the President of UOKiK submits reservations about the intended transaction to the parties. They contain a statement of grounds and are by no means conclusive as to the final outcome of the proceedings. The undertakings may comment on the position of the President of the Office before a final decision is taken. This situation concerned a concentration consisting in ArcelorMittal Poland (AMP) and Morris creating a joint venture. The former produces and sells steel products, including rolled rails. The latter operates in the field of sales of steel products, including rolled rails purchased from producers (including AMP) and produces and sells welded rails. According to the information gathered by UOKiK, the transaction may lead to a significant restriction of competition on the domestic rolled rail sales market on the part of end consumers. The concentration participants are the only significant competitors for each other from the perspective of the end buyer of the rails. In addition, after the concentration, the new venture would be the only entity in Poland offering welded rails, which could lead to higher prices. That is why, the President of UOKiK has presented reservations in this case. The undertakings withdrew the notification of intended concentration, which resulted in the discontinuation of the proceedings.

Investment control in 2022

Since 2020¹⁶, the President of UOKiK has controlled investments concerning Polish companies that have strategic importance for public order, security, or health. Within the scope of his powers, he may block their acquisition by investors¹⁷ outside the EU, EEA and OECD. The adoption of these regulations resulted directly from the COVID-19 pandemic and the risk of takeover of Polish companies, which, due to the pandemic, could experience temporary financial setback and their valuation could be particularly low. The legislation was to be in force for 2 years, but in view of the current geopolitical situation, its duration has been extended for another 3 years.

The control covers investments concerning Polish-based undertakings whose revenue from sales and services exceeded the equivalent of EUR 10 million in the

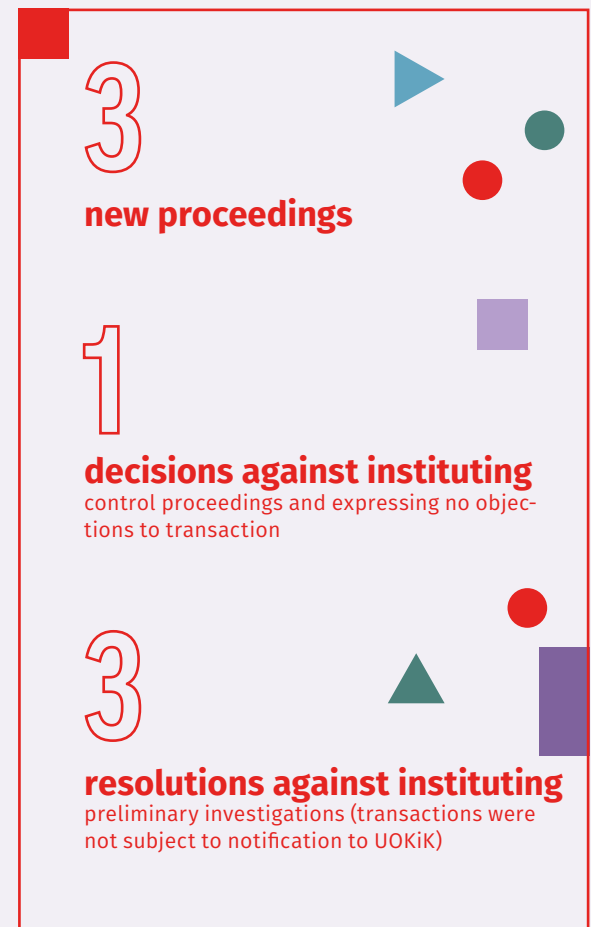
territory of Poland and meeting the conditions set out in the Act¹⁸. The entity conducting the transaction is obliged to notify the Office about it.

Investment control proceedings, just like concentration proceedings, are divided into 2 stages. The President of UOKiK conducts **verification proceedings** (stage 1) after receiving a notification of the intended transaction. It serves to separate cases that are simple from those that are more complex. If the transaction raises no objections, the Authority issues a no-objection decision and refrains from instituting control proceedings. Proper **control proceedings** (stage 2) are instigated with respect to cases that may pose a serious threat to public order, public security, or public health.

During the period of validity of the investment control legislation, the President of UOKiK has not imposed any transaction ban on the basis of the legislation. In 2022, the Authority instituted 3 proceedings in this case, all of which ended at stage 1. The President of the Office issued one no-objection decision (DKK-201/2022) concerning the acquisition by Saudi Arabian Oil Company of control over 3 companies of the Lotos Group: Lotos SPV 1, Lotos – Air BP Polska, and Lotos Asphalt.

For 3 cases, the Office issued **decisions against instituting preliminary investigations**, as the transactions in question were not subject to notification to UOKiK.

UOKiK's investment control activities in 2022



¹⁶ In July 2020, an amendment to the Act of 24 July 2015 on the Control of Certain Investments entered into force (Journal of Laws of 2020, item 2145). The legislation was part of the government's Anti-Crisis Shield 4.0, and its adoption was prompted by the COVID-19 pandemic.

¹⁷ I.e. natural persons who are not citizens of an EU, EEA or OECD Member State and entities that are not natural persons and whose registered office is not located in the territory of those Member States.

¹⁸ They are public companies or possess property that has been disclosed in the list of facilities, installations, equipment and services constituting critical infrastructure, or they develop or modify software in the areas indicated by the act or conducts business activity in one of the industries specified in the Act (including energy, fuel, chemical, food companies).

1.3 STATE AID

State aid constitutes an interference with market processes and should be applied only in the most justified cases. Providing state aid to a specific undertaking requires prior consent from the European Commission. An exception in this regard is aid granted under block exemptions, i.e. based on specific provisions recognising certain categories of support as compatible with the internal market (e.g. aid for small and medium-sized enterprises). The notification requirement also does not apply to *de minimis* aid, i.e. small-scale support¹⁹, that does not violate market competition principles. EC approval is also not required, as a rule, for aid to compensate for the provision of public services, for example rail and road passenger transport.

WHAT IS STATE AID?

State aid includes, for example, grants, tax reductions and exemptions, preferential loans and credits, credit sureties and guarantees, and recapitalisation of an undertaking on terms more favourable than those offered on the market.

Support from public funds for undertakings may be granted on the basis of an aid scheme or as individual aid. The President of UOKiK issues opinions about projects providing for such aid in terms of their compliance with EU law and the requirement to notify the EC. The Office advises institutions responsible for providing state aid in Poland on this matter.

¹⁹ Such aid does not exceed EUR 200 thousand gross for a single beneficiary within 3 calendar years, or EUR 100 thousand in the case of the road transport sector.

The President of UOKiK plays a key role in that process of notification of projects providing for the granting or modification of state aid. He notifies the EC of any intention to grant aid to an undertaking by a Polish administration body or any other public or private entity operating under state authorisation. Member States are obliged to refrain from implementing aid measures until the European Commission has issued a final decision on its compatibility with the EU law.

PRE-NOTIFICATION

The intended state aid may also be subject to pre-notification to the European Commission. The EC and the Member State analyse the legal and economic aspects of the aid project under a confidential procedure. This ensures that the future notification is better prepared and the process of its verification is more efficient.

Another important competence of the President of UOKiK involves the monitoring of aid granted to undertakings in Poland based on reports filed by institutions granting aid. All data is exchanged and collected within the SHRIMP system (Aid Scheduling, Reporting, and Monitoring System).

Overview of activities in 2022

► Support for the economy following Russia's aggression against Ukraine

UOKiK participated in the work on aid schemes for the provision of state aid due to the negative consequences of the

**UOKiK's REPORTS AND ANALYSES concerning state aid
– examples**

For the Chancellery of the Prime Minister:

- Report on state aid granted to undertakings in Poland in 2021,
- Report on *de minimis* aid granted to undertakings in Poland in 2021.

For the European Commission:

- Report on state aid granted in Poland in 2021 – prepared and submitted using the SARI2 electronic reporting system,
- Report on compensation, aid and other state interventions for the railway sector in 2020 and 2021,
- 2 semi-annual analyses “Results of monitoring of state aid granted to automotive companies operating in special economic zones”,
- Report on state aid provided in connection with the COVID-19 crisis under aid schemes adopted on the basis of the Communication from the Commission “Temporary framework for state aid measures to support the economy outbreak of 19 March 2020, as amended”,
- Report on aid granted in Poland in the period 2020-2021 concerning services of general economic interest.

armed conflict in Ukraine in line with the Communication from the Commission “Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia”. The most important notification proceedings concerned:

- aid from financial instruments and re-usable financial engineering instruments to support the Polish economy in view of the Russian Federation’s aggression against Ukraine,
- aid in the form of grants or loans from the operational programmes 2014-2020 to support the Polish economy in view of the Russian Federation’s aggression against Ukraine,

- factoring guarantee scheme under the Crisis Guarantee Fund,
- loan guarantee scheme under the Crisis Guarantee Fund,
- aid to cover additional costs caused by an exceptionally sharp increase in natural gas and electricity prices incurred in 2022,
- a system of subsidised loans for gas market operators.

► Opinions on state aid projects

In 2022, the President of UOKiK issued his opinion on 22 aid scheme projects, including the rules for granting state aid from European funds in the new 2021-2027 programming period. These included:

- financial aid provided through the National Centre for Research and Development under the European Funds for a Modern Economy 2021-2027
- aid for industrial research, experimental development and feasibility studies under the 2021-2027 regional programmes,
- investment aid for research infrastructure under the 2021-2027 regional programmes,
- regional investment aid under the 2021-2027 regional programmes,
- aid for the development of broadband infrastructure as part of the National Recovery and Resilience Plan,
- paid under the Interreg 2021-2027 programmes,
- aid for the green transformation of cities under development plan,
- aid for investments in high-efficiency cogeneration systems and for the promotion of renewable energy under the 2021-2027 regional programmes,
- aid for investments under the European Funds for Infrastructure, Climate and Environment programme 2021-2027 (FENIKS).

► Participation in proceedings before EU institutions

Examples of proceedings held before the European Commission in connection with pre-notified or notified state aid:

- Exemption of rail freight terminals from property tax,
- Government programme “Border Shield” – compensation for undertakings from Lubelskie and Podlaskie voivodeships in connection with the restriction of business activity caused by the situation on the Polish-Belarusian border,
- Reduction of annual fees for the right to use

20 individual aid projects

In 2022, the President of UOKiK issued his opinion on 20 individual aid projects for, among others:

- Elektrowni Wiatrowej Baltica – 2 sp. z. o.o. and Elektrowni Wiatrowej Baltica – 3 sp. z. o.o.,
- Baltic Power sp. z. o.o.,
- MFW Bałtyk II sp. z. o.o.,
- TVP S.A., TVN S.A. and Stopklatka S.A.

frequencies in the 700 MHz band for TVP S.A., TVN S.A., and Stopklatka S.A.,

- 6 projects under IPCEI on Next Generation Cloud Infrastructure and Services – the IPCEI (Important Projects of Common European Interest) mechanism is one of the key mechanisms of the EU's new economic policy to support European industry in economic sectors of strategic importance for the EU.

► Inter-ministerial cooperation

Cooperation with the Ministry of Development and Technology:

- participation in the preparation of amendment to the provisions of the Real Estate Management Act,
- pre-notification and notification of draft aid schemes, among others, IPCEI ME/CT and IPCEI Health,
- issuing an opinion on the Silesian Transformation Fund bill.

Cooperation with the Ministry of Development Funds and Regional Policy:

- participation in the preparation of draft aid schemes setting out the rules for granting state aid and *de minimis* aid from European funds in the new 2021-2027 programming period,
- transfer of state aid data to the new SL2021 system.

Cooperation with the Ministry of Agriculture and Rural Development:

- Issuing an opinion on and holding consultation about the draft MRiRW regulation on the specific purpose, conditions and procedure for providing support to micro, small and medium-sized enterprises for their operations

IMPORTANT DECISIONS ISSUED BY THE EC with regard to state aid:

18.03.2022

The EC issued a positive decision on a regional investment aid project to increase the production capacity of the LG Chem 2 plant in Biskupice Podgórne..

15.07.2022

The EC issued a positive decision on the hydrogen technology project (IPCEI Hy2Tech).

10.08.2022

The EC issued a positive decision on the restructuring aid project for Rafako S.A.

09.09.2022

The EC issued a positive decision on the individual support project for the Baltica 2 and Baltica 3 offshore wind farms.

01.10.2022

The EC issued a positive decision on the liquidation aid project for Getin Noble Bank S.A. under recovery proceedings.

17.10.2022

The EC issued a positive decision on indirect cost compensation under the EU ETS in Poland for 2021–2030.

related to the processing or marketing of agricultural, fishery or aquaculture products as part of the National Recovery and Resilience Plan,

- arrangements for state aid report and the report on state aid granted in the agricultural and fisheries sector.

Cooperation with the Chancellery of the Prime Minister::

- issuing an opinion on the draft regulation of the Council of Ministers on state aid granted to certain undertakings for the implementation of new investments,
- providing detailed information and data on the budgets and utilisation of aid schemes notified by Poland, France and Germany in connection with the COVID-19 pandemic and the war in Ukraine.

UOKiK's STATE AID activities in 2022

Opinions on state aid projects and analysis of draft government documents

43 opinions

including:

- 22** opinions on aid schemes
- 20** opinions on individual aid
- 1** opinion on individual aid for restructuring

462 received and reviewed requests for interpretation of state aid regulations

952 reviewed notifications of *de minimis* aid schemes

603 draft government documents reviewed in terms of recognising specific support as state aid

Notification proceedings before the European Commission

29 projects pre-notified to the EC through UOKiK: including:

- 24** aid scheme projects
- 4** individual aid projects
- 1** individual aid for restructuring

17 projects pre-notified to the EC through UOKiK: including:

- 4** aid scheme projects
- 13** individual aid projects

21 projects approved by the EC*

5 withdrawn projects*

69 projects notified to the EC by the President of UOKiK under block exemptions

including:

- 42** aid scheme projects
- 27** individual aid projects

* Statistics include cases reported in previous years.

Cooperation with the Ministry of Finance:

- cooperation of the SHRIMP UOKiK and SHRIMP MF systems, data exchange, drafting of state aid reports, monitoring of state aid, and data compliance in reports.

Cooperation with the Ministry of Infrastructure:

- issuing an opinion on the draft Act amending the Act on the Commercialisation and Restructuring of the State-owned Enterprise Polish State Railways and the Railway Fund Act,

- issuing an opinion on the draft Act on Special Regulations for Transport and Maritime Management in connection with the Armed Conflict in the Territory of Ukraine,
- issuing an opinion on the draft Act amending the Maritime Safety Act and Certain Other Acts,
- opinion on the draft Act amending the Public Transport Act and Certain Other Acts,

1.4

CONTRACTUAL ADVANTAGE

Contractual advantage occurs when there is a significant disparity in economic potential between suppliers and buyers of agricultural and food products. It may be unfair to use it if an action is contrary to good practices and poses a threat to the essential interests of the other parties or infringes upon such interests.

The task of the President of UOKiK is to eliminate unfair trade practices in relations between entities operating in the supply chain of agricultural and food products. These measures serve to protect the public interest rather than individual interests of a specific undertaking.

To protect the interests of suppliers or buyers of agricultural and food products, the President of UOKiK institutes proceedings on practices involving an unfair use of contractual advantage. The Office identifies the problem, determines what the harmful practice is, and takes further action to correct the irregularity. This may be preceded by preliminary investigation, which is intended, in particular, to establish whether there has been a violation of the law that justifies the initiation of proceedings on practices involving an unfair use of contractual advantage.

The proceedings may end in a cease and desist letter concerning the abusive practices and the imposition of a fine on the undertaking. The President of the Office may also issue a provisional decision. The Act on Counteracting Abuse of Contractual Advantage²⁰ also provides for 2 conciliatory solutions – voluntary submission to penalty and the President's decision obliging the undertaking to cease and desist the abusive practices or remedy their consequences.

Undertakings which have been harmed by the practices of another entity resorting to an unfair use of contractual

advantage may pursue their claims before a civil court. In such cases, the President of the Office may present to the court a view relevant to the case ("reasoned opinion") by presenting the findings from the UOKiK proceedings.

HOW TO REPORT irregularities in the agri-food industry to UOKiK?

More at:
przewagakontraktowa.uokik.gov.pl



Overview of activities in 2022

► The highest fine for unfair use of contractual advantage

The President of UOKiK imposed a fine of over PLN 68 million on Agri Plus for an unfair use of contractual advantage (decision RBG-14/2022). The entity belongs to the Animex capital group and is one of the largest pig fattening operators in Poland. According to notifications received by the Authority, including from the Agency for Restructuring and Modernisation of Agriculture, the undertaking took State compensation granted to farmers for losses related to African swine fever (ASF). Micro, small and medium-sized farmers in areas affected by restrictions due to ASF eradication may be granted aid for levelling up decreased income arising from reduced number of customers or lower sales prices.

²⁰ The Act of 17 December 2021 on Counteracting Unfair Use of Contractual Advantage in Trade in Agricultural and Food Products (Journal of Laws of 2023, item 351).

UOKiK's ACTIVITIES concerning contractual advantage in 2022

NEW PROCEEDINGS

17

preliminary

4

proceedings on practices involving unfair use of contractual advantage

3

decisions imposing a fine for unfair use of contractual advantage

OTHER ACTIVITIES

1 inspection under proceedings concerning contractual advantage

2 inspected undertakings

72 notifications from undertakings

14 soft calls to undertakings

1 reasoned opinion in a case

UOKiK confirmed that Agri Plus drafts contracts with its business partners in such a way that it obliges them to pass the state aid they receive to the company. The company reduced the prices of the purchased animals by the amount of compensation concluding that, as the organiser of the contracted fattening system, it should be reimbursed for the ASF-related losses. It also organised a system for monitoring state aid received by farmers. Around 1,000 regular suppliers were affected by the company's actions, and it managed to collect at least PLN 12 million from several dozen business partners. The undertaking appealed against the decision.

DECISIONS with the highest total amount of penalties imposed on undertakings in 2022 for practices involving unfair use of contractual advantage

total penalties: **PLN 70.9 million**

PLN 68.5 million

RBG-14/2022

Agri Plus sp. z o.o.

based in Poznan

1 penalty

PLN 2.1 million

RBG-2/2022

Cefetra Polska sp. z o.o.

based in Gdynia

1 penalty

PLN 327.5 thousand

other penalties

► Unfair practices on the grain market

The President of UOKiK had reservations about selected clauses of contracts applied by Cefetra Polska in transactions with farmers supplying it with grain, rapeseed, and legumes. The company is one of the largest players on the Polish grain trade market. It required its counterparties to provide supplies in the agreed-upon quantities, even if they were unable to meet their obligations due to force

majeure events and for reasons beyond farmers' control. In some cases, the losses exceeded even 50% of the average annual agricultural production on the supplier's farm. In order to demonstrate force majeure event, the farmer had to provide the company with a document confirming a state of natural disaster has been introduced in the area in which he operates. In addition, Cefetra Polska required the demonstration of a very high level of losses on the supplier's farm, which in practice made it impossible for the supplier to enjoy exemption from his obligations. Consequently, the company claimed contractual penalties against the supplier and costs related to the company's purchase of the product from another entity. In the opinion of the President of UOKiK, Cefetra Polska's practices posed an excessive risk to suppliers relating to contract performance and was a manifestation of unfair use of contractual advantage. The fine imposed on the undertaking amounted to over PLN 2 million (decision RBG-2/2022). The decision is not final.

A similar practice towards grain producers was applied by PolishAgri, the leader in the export of these crops in western Poland. It buys wholesalers of various types of grain, including wheat, rye, triticale, malting barley, mainly from individual farmers who run their farms on a small scale. The parties operate under a pre-drafted model contract and individual suppliers have no influence over its contents. The proceedings conducted by UOKiK have demonstrated the company's unfair use of contractual advantage over farmers, burdening them with excessive risk relating to contract performance. The undertaking demands that farmers provide all the contracted supplies, even if they are unable to do so for reasons beyond their control, such as climatic conditions. When suppliers are unable to sell the contracted products from their own farm, they are required to pay a penalty or buy the grain themselves on the free market or bear the costs of a substitute purchase made by PolishAgri. The President of the Office imposed a fine of over PLN 300 thousand on the undertaking (decision RBG-9/2022). The decision is not final.

The President of UOKiK continued his efforts aimed at reviewing the rules of cooperation between farmers and larger entities operating on the grain purchasing market. To this end, he launched 7 preliminary investigations into the practices of grain buyers: Cargill Poland, ADM Direct Polska, Bunge Polska, Polskie Młyny, Viterra Polska (formerly Glencore Polska), Louis Dreyfus Company Polska, Procam Polska. The analysis concerned, among others,



the method of establishing settlement between entities, the obligations of the contracting parties taking into account the distribution of risks, the burden of contractual penalties and provisions regarding force majeure, which were challenged by the Office in the case of Cefetra Polska and PolishAgri.

► Sales-related fees – UOKiK report

UOKiK monitors the agri-food market for an unfair use of contractual advantage by major entities. This analysis results in the preparation of a report on the sales-related fees charged by the largest retail chains for their services, e.g. IT or logistics, provided to the suppliers of agri-food products. The report is a summary of market research conducted by the President of UOKiK, covering 35 entities run by 52 retail chains. Each of the surveyed undertakings charged suppliers for the sales-related services they provided. Between 2016 and 2020, the total estimated value of revenues from these services amounted to approx. 5 billion per year (more information: 3.1 Market research). In most cases, suppliers paid for 4 types of services – marketing services (including sales support, e.g. electronic communications, merchandise display), IT services (e.g. technical support), logistics services (e.g. supply of goods to logistics centres and shops) and laboratory services (rendered to suppliers which provided products to the chains, which were subsequently sold under retailer's private labels).

One of the objectives of the analysis conducted by the President of UOKiK was to inform market participants when the charging of sales-related fees could be considered an unfair use of contractual advantage. Some of the

activities of the retail chains concerning the examined fees have been directly recognised in the provisions of the new Contractual Advantage²¹ Act as **grey practices**, i.e. allowed if clearly and unambiguously agreed in advance. This applies to marketing services and certain logistics services related to product storage. The terms of services should be set out in a contract, which must be before the anticipated effective date of the contract. Furthermore, the supplier should be free to decide whether the services are to be provided to him or her, and a lack of consent should not lead to any negative consequences on the part of the retail chain. The supplier also needs to know for which activities he or she pays and be aware of the exact conditions under which these activities are performed. For practices that are not directly indicated in the Act, it is possible to examine them as to whether they are contrary to good practices and whether they jeopardise or infringe the supplier's essential interest. In the report, UOKiK stresses that the issue of the use of sales-related services should be freely negotiated between the parties and not unilaterally imposed on the weaker partner. The activities performed by the chain as part of the service should be of real value to the supplier and thus beneficial to both contracting parties. Sales-related fees should therefore not be an instrument for chains to pass on the costs of their own business activities to their counterparties.

While still at the market research stage, the President of UOKiK diagnosed irregularities concerning the application of sales-related fees by the owners of Auchan, Carrefour, Żabka, Dino, and Selgros chains. The purpose of preliminary investigations is to verify the services they provide to suppliers in connection with the sale of agri-food products. Concerns were raised about practices consisting in chains charging fees for the transport of products from their central warehouses to individual stores. However, the central goods distribution system is an integral part of the business model of retail chains and they should cover organisation costs on their own. Therefore, charging specific logistics fees may place an unreasonable burden on counterparties. In addition, the scope of some of the services provided by the 5 companies to suppliers may be defined in a vague manner. The President of UOKiK imposed a fine of PLN 76 million on Eurocash in 2021 for the use of unfair practices related to the collection of sales-related fees (decision RBG-3/2021).

GREY PRACTICES VS. BLACK PRACTICES

The Act on Counteracting Unfair Use of Contractual Advantage contains a catalogue of practices which are **strictly prohibited** (the so-called black practices) or **permitted under well-defined conditions** (the so-called grey practices). For such practices, there is no requirement to examine whether they are contrary to good practices or pose a threat to the essential interests of the other party or infringe upon such interests. The use of grey practices is permitted as long as they have been **clearly and unambiguously agreed in advance in a contract between the buyer and the supplier** and the contract has been concluded before the anticipated effective date of the contract. Furthermore, the supplier should be free to decide whether the services were provided to him or her, and a lack of consent should not lead to any negative consequences on the part of the buyer.

► Unfair use of contractual advantage by retail chains

The President of UOKiK challenged the practices of 2 large retail chains and instituted proceedings against them concerning an unfair use of contractual advantage. The Authority's findings show that SCA PR Polska (the purchase centre for Intermarkete stores) set terms of cooperation with suppliers of agri-food products for the following year with delay, expecting them to accept the new terms from the beginning of this year. In addition, the undertaking obtained a retrospective discount from suppliers, despite the fact that the turnover value on which the parties made its provision conditional in the agreement was not achieved in the relevant settlement period. As a result of these activities, the company's business partners were deprived of part of their income from cooperation with the chain. With regard to the second chain, Auchan, the President of UOKiK made an allegation of **unreasonable collection of fees from suppliers**. The undertaking charged its counterparties for the costs of transporting goods from warehouses to individual outlets, thus shifting some of the costs of carrying out its own core business to suppliers. Moreover, not all suppliers paid the transport fee – some of them were exempted from it, despite the supply of goods to central warehouses as well, which may indicate unequal treatment of partners.

21 ditto.

► UOKiK's interventions on the milk market

The amendment to the Contractual Advantage Act in 2021²² vested the right to examine relations between dairy cooperatives and their members in the President of UOKiK. Thanks to the new powers, contracts for sale, delivery and procurement of milk received from farmers and obtained from other sources were analysed. Some of the contractual provisions raised the Authority's concerns as they laid down the terms of cooperation in a way that was unfavourable to farmers. One of the undertakings whose practices have been challenged is Spółdzielnia Mleczarska Mlekpól – one of the largest producers of milk and dairy products in Poland. The 13 processing plants it owns manufacture products which are sold under brands such as Łaciate, Milko, Mazurski Smak, and Rolmlecz. Mlekpól purchases milk from agricultural producers who are also members of cooperatives. The cooperation is based on agricultural procurement contracts. The parties operate under a pre-drafted model contract and individual suppliers have no influence over its contents.

The President of UOKiK Tomasz Chróstny charged Mlekpól with the unfair use of contractual advantage. The charges concern, among others, the following practices:

- possible unilateral change of the milk buying price list, including with retroactive effect (changing the price list does not require the consent of cooperative members, or sometimes even their notification),
- hindered access of the supplier to full information on the terms and conditions of the contract (e.g. some milk quality requirements are included in the internal files of cooperatives which are not attached to the contract),
- ambiguous rules for imposing penalties and their arbitrary application, lowering the price for full-value milk during the notice period.

The Authority also challenged the contractual provisions concerning the incapacity to verify the quality of milk in a laboratory independent of Mlekpól and the incapacity to exempt the producer from the obligation to supply milk in the event of circumstances beyond their control (e.g. accident, malfunction, difficult weather conditions). Mlekpól, on the other hand, is entitled to refuse to collect the milk in the event of force majeure.

1.5

PAYMENT GRIDLOCKS

A payment gridlock refers to a situation where an undertaking does not receive its receivables from a counterparty on time. The accumulated debt is passed on to subsequent related parties, adversely affecting the liquidity of the entire business environment. Untimely payments or excessively long payment periods for received goods or services are a hindrance to business operations. Gridlocks are particularly damaging for micro, small and medium-sized undertakings, contributing to their liquidity problems and constituting a barrier to investment and growth.

The President of UOKiK conducts proceedings and imposes administrative fines on entities that are in arrears with payments to their counterparties. Proceedings are only instituted ex officio on the basis of evidence and information obtained by UOKiK. They may originate from notices submitted by entities suspecting that they have fallen victim to a payment gridlock.

► HOW TO REPORT a suspected case of payment gridlocks to UOKiK?

More at:
zatoryplatnicze.uokik.gov.pl



22 ditto.

1.4 Contractual advantage

1.5 Payment gridlocks

An excessive delay in the fulfilment of financial obligations occurs when, over a period of 3 consecutive months, the sum of the value of all financial obligations unfulfilled or fulfilled after the deadline by a given entity amounts to **at least PLN 2 million**. This applies to arrears under invoices issued after 1 January 2020 or earlier if they became due after 1 January 2020. If the above conditions are met, the President of UOKiK imposes a **financial penalty** on the undertaking, the amount of which depends on the size of the debt and the length of the payment delay. The payment gridlocks regulations also provide that the President of UOKiK automatically waives the penalty if the value of the benefits that the undertaking had not received or had received with delay during the period under scrutiny exceeds the amount of obligations that the undertaking had failed to pay or had paid with delay.

Undertakings have the right to request the President of UOKiK to **reconsider the case or file a complaint** with the Voivodeship Administrative Court in Warsaw.

Key payment gridlock counter-measurements are contained in the Act on Counteracting Excessive Delays in Commercial Transactions²³. Its **amended provisions entered into force on 8 December 2022** and apply to commercial transactions entered into after that date. All transactions which had been entered into at an earlier date and proceedings which had been instituted but not concluded before the date of entry into force of the amended Act are subject to pre-existing regulations²⁴. The main assumption of the changes was to increase the effectiveness of proceedings of the President of UOKiK, mainly by clarifying the provisions of the Act and simplifying the procedure concerning the submission of reports by obligated entities (more information: 3.2 Drafting of legal regulations).

Overview of activities in 2022

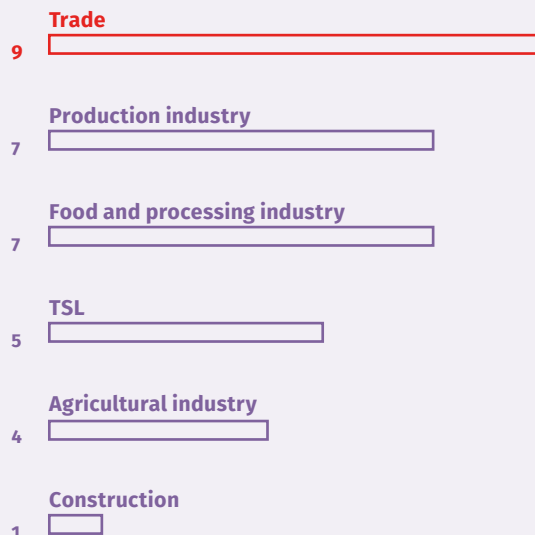
The Authority **conducted 88 proceedings for excessive delays** in the fulfilment of financial obligations. They mainly concerned undertakings (retail and wholesale), food and processing operators, the manufacturing industry, and TSL (transport, forwarding, logistics).

The President of UOKiK issued **35 decisions** against undertakings causing payment gridlocks in the economy.

²³ Introduced under the Act of 4 November 2022 amending the Act on Counteracting Excessive Delays in Commercial Transactions and the Public Finance Act (Journal of Laws of 2022, item 2414).

²⁴ Act of 19 July 2019 amending Certain Acts to Limit Payment Gridlocks (Journal of Laws of 2019, item 1649).

DECISIONS confirming the existence of payment gridlocks – by industry



INDUSTRIES, in which the President of UOKiK issued decisions confirming the existence of payment gridlocks (the value of payment gridlocks)





Thirteen undertakings were given a fine for excessive delays in the fulfilment of financial obligations to counterparties, and 7 of them requested the President of the Office to reconsider the case.

13

**decisions confirming payment
gridlocks and imposing penalties on undertakings**

Including industries:

- **Production industry** – 5 decisions
- **Trade** – 5 decisions
- **Food and processing industry** – 2 decisions
- **TSL** – 1 decision

► **Decisions with the highest penalties for payment gridlocks to date**

Two decisions of the President of UOKiK with the highest penalties imposed so far in anti-gridlock proceedings concerned undertakings from the commercial sector on the pharmaceutical market. Neuca and Polska Grupa Farmaceutyczna together hold more than 50% of the market share of the pharmaceutical wholesale market, which translates into a significant impact of both entities and their payment discipline on the occurrence of payment gridlocks in this sector of the economy. In the case of Neuca (decision DZP-4/2022), the proceedings confirmed that the undertaking's practice was to delay the payment of remuneration to its counterparties, while there was no rational justification for these delays. The company's explanations, pointing to its difficult situation and failure to receive payments from its counterparties, were not confirmed by the evidence gathered. The administrative fine imposed by the President of UOKiK amounted to nearly PLN 3.1 million. Due to the applicable formula, the amount of the financial penalty reflected the scale of the payment gridlock caused by the company in the economy, which exceeded one billion zlotys in the period under review. The second proceedings concerning excessive delays in the fulfilment of financial obligations concerned Polska Grupa Farmaceutyczna. The proceedings conducted in regard to PGF indicated that between February and March 2020 alone, the company was in default on its financial obligations of over PLN 425 million. The President of UOKiK imposed a fine of over PLN 4.4 million on the undertaking (decision DZP-19/2022). The two decisions are not final.

► **Waiver of penalty**

For 20 undertakings, the proceedings ended with the President of UOKiK finding excessive delays in the fulfilment of financial obligations and applying penalty waivers. Pursuant to the provisions of the Act on Counteracting Excessive Delays in Commercial Transactions, such decisions are made if the value of receivables which the undertaking has not received or received after the due date in the period under review exceeds the payment gridlock caused by the undertaking. The penalty waivers concerned: 5 undertakings from the food and processing industry, 4 undertakings from in the TSL industry, 2 undertakings from the agricultural industry, 2 undertakings from the industrial production industry, and 1 undertaking from the construction industry.

UOKiK's PAYMENT GRIDLOCKS activities in 2022

Proceedings concerning excessive delays in the fulfilment of financial obligations

88 proceedings

Decisions issued in 2022 with regard to payment gridlocks

33 decisions concerning excessive delays in the fulfilment of financial obligations,

including:

13 decisions imposing a fine

20 decisions waiving a fine

2 decisions confirming excessive delays in the fulfilment of financial obligations issued as a result of requests for reconsideration

OTHER ACTIVITIES

10 reviewed notices of suspected cases of payment gridlocks

PLN 290.3 million number of invoices examined under Probability Analysis

PLN 4 billion total amount of payment gridlocks identified in the decisions issued

131 257 number of entities subject to analysis under Probability Analysis

PLN 10.9 million total amount of penalties imposed

PLN 4.4 million the highest penalty imposed on the undertaking

nearly 7 million invoices checked as part of proceedings

CONSUMER PROTECTION

2.1
Practices infringing
collective consumer
interests

2.2
Supervision over
the Trade Inspection

2.3
Product safety and
market surveillance

2.4
Laboratories



2.5
Out-of-court
consumer dispute
resolution system

2.6
Cooperation
with consumer
organisations...

2.7
European Consumer
Centre at UOKiK



2.1

PRACTICES INFRINGING COLLECTIVE CONSUMER INTERESTS AND ABUSIVE CLAUSES IN MODEL CONTRACTS

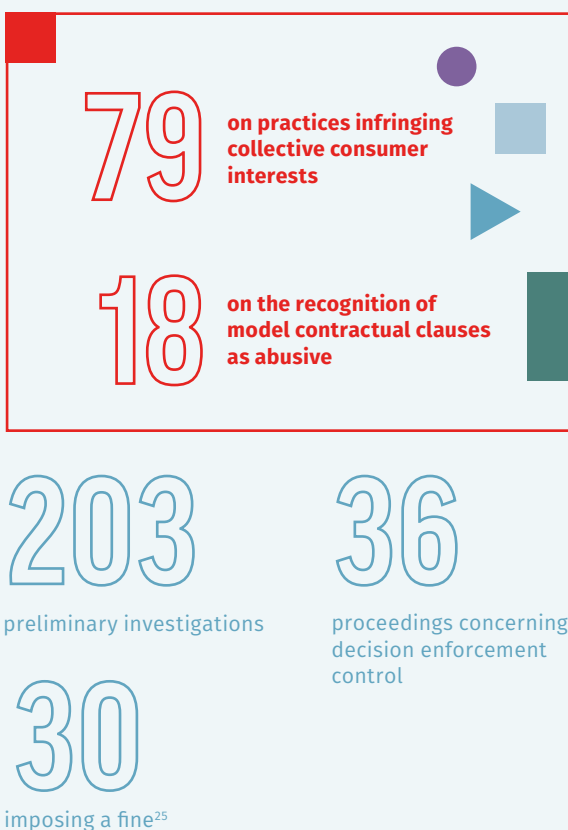
One of the main tasks of the President of UOKiK is to eliminate practices that infringe collective consumer interests. They include unlawful or non-customary actions of undertakings that may affect an unlimited number of people. The President of the Office also counteracts the use of abusive clauses in model contracts, which shape the rights and obligations of consumers in a manner contrary to good practices and grossly infringe their interests. Model contracts contain standardised clauses that are commonly used in dealing with consumers without the possibility of individual negotiation.

The President of UOKiK initiates administrative proceedings in cases of considerable importance for collective consumer interests. The proceedings may be concluded with a cease and desist letter concerning the contested activities and the imposition of a financial penalty or with a voluntary commitment of the undertaking to change its behaviour to remedy the infringements. Decisions of the President of the Office may also provide for the application of measures to remedy the ongoing effects of the infringement (the so-called public compensation), e.g. in the form of reimbursement of unduly charged fees. The actual proceedings against an undertaking are often preceded by a preliminary investigation to determine whether an infringement has occurred.

UOKiK identifies infringements by monitoring the behaviour of undertakings and analysing signals received from the market. Moreover, as part of its grant, UOKiK provides legal aid to consumers. The President of UOKiK also issues reasoned opinions in court cases relating to consumer protection. In this way, with its expertise, the Office assists the common court in the comprehensive examination of the case.

The President of UOKiK may also request the undertaking to provide explanations or to change an unlawful

NEW PROCEEDINGS concerning consumer protection in 2022



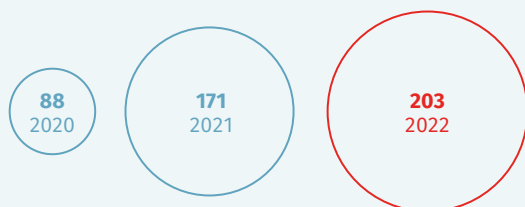
²⁵ Proceedings concerning a financial penalty for non-compliance with or late enforcement of a decision, for failure to provide the President of UOKiK with requested information or for providing untrue or misleading information, or for failure to cooperate in the course of an inspection.

2.5
Out-of-court
consumer dispute
resolution system

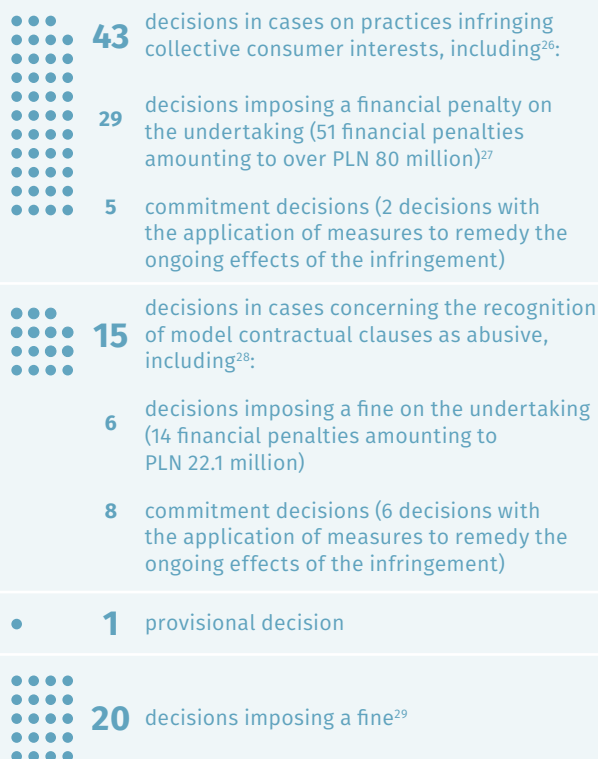
2.6
Cooperation
with consumer
organisations...

2.7
European Consumer
Centre at UOKiK

PRELIMINARY INVESTIGATIONS launched in 2020-2022



CONSUMER PROTECTION DECISIONS issued in 2022



OTHER MEASURES taken in 2022

- 18,660** notifications³⁰ received from the market
- 116,404** cases reported through consumer helpline and e-advice
- 363** new soft calls to undertakings³¹
- 2** inspections carried out³² at **2** undertakings, including **1** undertaking inspected using mystery shopper
- 3** consumer alerts
- 251** issued reasoned opinions in court cases

DECISIONS with the highest total amount of penalties imposed on an undertaking in 2022 for using practices infringing collective consumer interests

total penalties: **over PLN 80 million**

PLN 28.4 million
RŁO-7/2022
BO Energy sp. z o.o. sp. k.
based in Kraków
6 penalties
for unfair practices in
photovoltaics

PLN 22.2 million
RBG- 15/2022
Vectra S.A. based in Gdynia
1 penalty
for practices relating
to the amendment
of the terms of
telecommunications
contracts

PLN 12.6 million
DOZIK-13/2022
UPC Polska sp. z o.o.
based in Warsaw
1 penalty
for excessive costs of
termination of telecommu-
nications contracts

PLN 16.8 million
other penalties

²⁶ The decisions provided are exemplary.

²⁷ Financial penalties are imposed for a particular practice, and as such, more than one such penalty may be imposed through a single decision.

²⁸ The decisions provided are exemplary.

²⁹ Proceedings concerning a financial penalty for failure to provide the President of UOKiK with requested information or for providing untrue or misleading information.

³⁰ Data based on notifications reported to the UOKiK headquarters and branch offices.

³¹ Concerns calls made on the basis of Article 49a of the Competition and Consumer Protection Act.

³² Number of proceedings in which inspections were conducted.

2.1 Practices infringing collective consumer interests...

practice without instituting proceedings. Additional evidence can be obtained through **inspections** of undertakings, also with the use of the so-called mystery shopper. In specific cases, the President of the Office may issue a **consumer alert** regarding the actions of a particular undertaking and their potential consequences. This solution is used if there is a reasonable suspicion that the practices may cause substantial losses or adverse effects for a wide range of consumers.

Overview of activities in 2022

► Obstructing the use of “loan repayment holidays”

At the end of July 2022, the new “loan repayment holidays” regulations entered into force³³ as part of government support for consumers. Thanks to the solution, borrowers who took out a mortgage loan in the Polish zloty for their own housing needs may temporarily suspend repayment. As part of the preliminary investigation, the President of UOKiK scrutinised 17 banks³⁴ to determine whether they provide information about loan repayment holidays or make it difficult for consumers or discourage them from choosing this option. After soft calls of the President of the Office, most banks abandoned practices that customers complained about, such as scaring them with the negative consequences of being listed in the Credit Information Bureau or requiring them to apply for loan repayment holidays in advance, which was not stipulated by law. In addition, most banks have made it possible for consumers to apply for loan repayment holidays on a single form, without having to submit separate applications for a particular period or instalment. The banks that failed to adapt have been charged with infringing collective consumer interests. These are: BNP Paribas Bank Polska, Getin Noble Bank, and Bank Pocztowy.

► Early repayment of a mortgage loan

The President of UOKiK launched 17 preliminary investigations in connection with consumer complaints about the settlement of mortgage loan costs in the event of early

33 Act of 7 July 2022 on Crowdfunding for Business Ventures and Assistance to Borrowers (Journal of Laws of 2023, item 414).

34 Alior Bank, Bank Handlowy w Warszawie, Bank Millennium, Bank Ochrony Środowiska, Bank Pocztowy, Bank Polska Kasa Opieki, Bank Polskiej Spółdzielczości (Grupa BPS), BNP Paribas Bank Polska, Credit Agricole Bank Polska, Getin Noble Bank, ING Bank Śląski, mBank, Pekao Bank Hipoteczny, PKO Bank Hipoteczny, Powszechna Kasa Oszczędności Bank Polski, Santander Bank Polska, SG Bank.

2.2 Supervision over the Trade Inspection

2.3 Product safety and market surveillance

2.4 Laboratories

DECISIONS with the highest total amount of penalties imposed on an undertaking in 2022 in relation to the recognition of model contractual clauses as abusive

total penalties: **PLN 22.1 million**

over PLN 10 million
DOZIK-10/2022
Uniqa Towarzystwo Ubezpieczeń na Życie S.A.
based in Warsaw
1 penalty
for abusive clauses in unit-linked life insurance contracts (UFK)

nearly PLN 4 million
DOZIK-16/2022
Allegro sp. z o.o.
based in Poznań
2 penalties
for abusive clauses in the terms and conditions of the Internet platform

PLN 5.2 million
DOZIK-3/2022
MetLife Towarzystwo Ubezpieczeń na Życie i Reasekuracji S.A.
based in Warsaw
1 penalty
for abusive clauses in unit-linked insurance contracts

PLN 2.9 million
other penalties

UOKIK'S ACTIVITIES

11 penalties on managers for a total amount of PLN 460 thousand

including:

PLN 385 thousand 8 penalties in relation to the practices infringing collective consumer interests

PLN 75 thousand 3 penalties for failure to cooperate in the course of inspection/search within the preliminary investigation

repayment. The settlement concerns interest and costs which are objectively linked to the term of the contract and objectively do not constitute the borrower's remuneration for the temporary use of capital. Santander Bank Polska is the first institution against which the President of UOKiK has filed allegations for failure to settle the collected fees in the event of full early repayment of a mortgage loan.

UOKiK'S ACTIVITIES

The Authority extended the
**mortgage interest rate
calculator**
with new functionalities. Consumers were also able to
use consumer credit early repayment calculator.
More information:
3.3 Information and educational activities

► Unauthorised bank transactions

UOKiK continued its efforts relating to unauthorised bank transactions. The evidence collected allowed proceedings to be instituted against 9 banks in 2022³⁵. The allegations concern, among others, failure to return money from unauthorised transactions to consumers within the statutory time limit and misleading consumers about the bank's obligations. In the opinion of UOKiK, the bank should immediately return the transaction amount by the end of the business day following the day on which the unauthorised transaction was identified, unless the unauthorised transaction was reported at least 13 months after it had taken place or the bank has a reasonable suspicion that the payer may have committed fraud and reports such suspicion to law enforcement agencies³⁶. In other cases, the bank should refund the amount of the unauthorised transaction and possibly only then analyse the consumer's contribution. The Authority also analysed the material collected during the preliminary investigations of other banks.

Moreover, UOKiK, in cooperation with the Financial Ombudsman, prepared a FAQ on unauthorised transactions. He clarified, among others, the obligations to be

fulfilled by payment service providers (e.g. banks) in such situations. At the initiative of the Authority, a working group was set up at the end of 2022 with the participation of the Polish Financial Supervision Authority and the 8 largest banks to come up with technical solutions to better secure consumer funds. UOKiK has also launched a nationwide public awareness campaign "Losing data means losing money!", which warns consumers of scam attempts (more information: 3.3 Information and educational activities).

► Abusive clauses in unit-linked insurance

The President of UOKiK issued further decisions against insurers using abusive clauses in unit-linked life insurance contracts (UFK). The financial penalty imposed on MetLife amounted to PLN 5.2 million (decision DOZIK-3/2022), whereas the financial penalty on Uniqa (formerly AXA) was over PLN 10 million (decision DOZIK-10/2022). In both cases, the proceedings concerned the so-called allocation fees. The contract withdrawal mechanisms provided for the loss of a considerable part of customer funds and thus discouraged the customers from early termination of the contract. Both companies have lodged an appeal against the decision. In the case of Allianz Życie (formerly Aviva), the President of UOKiK contested vague modification clauses allowing for increasing various fees. The company undertook to cease and desist the abusive clauses when the proceedings were still pending. The President of UOKiK obliged Allianz to pay compensation to the members of UFK group life insurance (RBG-12/2022). The decision is final.

► Loans under the guise of bonds

The case concerns a company suggesting that its offer relates to social impact bonds. In fact, it proposed investments consisting in granting an interest-bearing loan to a company by consumers. The penalty imposed on Obligacje Społeczne amounted to over PLN 170 thousand (decision RŁO-3/2022). The practice was particularly dangerous for consumers because the undertaking referred to concepts from the financial market that inspire public trust. Therefore, when the proceedings were still pending, the President of UOKiK issued the first provisional decision on consumer protection, in which he ordered, among others, that any content suggesting that the offer relates to bonds be removed from the company websites. In addition, a consumer alert was issued. The sanctions were also extended to Krajowy Fundusz Gwarancyjny (KFG), which encouraged investments in the financial products

35 Bank Millennium, BNP Paribas Bank Polska, Credit Agricole Bank Polska, mBank, Santander Bank Polska, Bank Pocztowy, ING Bank Śląski, Nest Bank, and Santander Consumer Bank.

36 The position of the President of UOKiK on unauthorised transactions was published in November 2022 at finanse.uokik.gov.pl.

2.1 Practices infringing collective consumer interests...

2.2 Supervision over the Trade Inspection

2.3 Product safety and market surveillance

2.4 Laboratories



of Obligacje Społeczne. The two companies were related. KFG's actions misled consumers through the unauthorised use of the logotypes of known financial and insurance institutions and the use of the misleading name "Krajowy Fundusz Gwarancyjny" [National Guarantee Fund]. The total fine imposed on the company and its head amounted to PLN 160 thousand (decision RŁO-5/2022). Both Obligacje Społeczne and KFG lodged an appeal against the decision.

► Limits on non-interest loans

Everest Finanse, in the course of granting consumer credits, brokered in the conclusion of consumer leaseback agreements for household appliances. In the Authority's opinion, the financing model based on loan contracts and consumer lease contracts may have been artificially designed to cover the regulations on non-interest limits on consumer loan costs. Accordingly, the President of UOKiK accused the company of applying higher non-interest loan costs than the statutory limits, which were temporarily reduced during the COVID-19 pandemic. The proceedings also related to the lack of clear and unambiguous information about the contracts signed and their high costs, which was part of consumer complaints..

► Capital raising through promissory notes

The President of UOKiK issued a decision (RWR-3/2022) in relation to Brewe Leasing, which offered promissory notes to finance its operations. The company is using promissory notes in a manner contrary to its intended purpose, which is to secure debt. Furthermore, the undertaking misleads consumers as to the security of their money and

the promised profits. The President of the Office imposed a fine of over PLN 150 thousand on the company and ordered it to immediately cease and desist the contested practices. The decision is not final.

► Debt collection mechanisms

Profi Credit Polska offers loans to consumers. The allegations made by the President of UOKiK concern debt collection mechanisms applied by the undertaking. The company communicates with its debtors in a way that may give rise to a feeling of concern and anxiety about their assets. Such practices are likely to distort consumer behaviour, drive them to make economically unfavourable decisions or avoid contact with the loan provider altogether. Debt collection should be carried out in a professional manner, respecting the rights of the parties.

► Investment in rental properties

The case concerns CGA Invest, which developed and sold premises in a condo hotel called Czarna Perła in Sienna. The allegations of the President of UOKiK concerned misleading consumers as to the safety of their investments, the amount and frequency of profits, as well as the lack of relevant information about the financing model. Moreover, lease agreements with consumers were concluded by an entity other than the one provided for in reservation agreements and preliminary sales agreements. In his decision (DOZIK 9/2022), the President of the Office accepted the company's commitment to change the practices and to grant compensation to the affected consumers, including in the form of a free stay at the facility. The decision is final.

CONSUMER ALERTS issued in 2022

undertaking	activities putting consumers at risk
International Markets Live, Inc. based in New York (United States of America)	establishment, operation or promotion of pyramid-type incentive schemes
InCruises International LLC based in Guaynabo (Puerto Rico)	operating as a syndicate scheme or organising a group involving consumers to finance purchases in a syndicate scheme
Obligacje Społeczne Prosta S.A. based in Warsaw	misleading consumers, among others, as to product risks

► Pyramid-type incentive schemes

The President of UOKiK instituted proceedings against Selfmaker Smart Solutions and Selfmaker Technology and its CEO. Allegations were also made against 5 undertakings promoting an affiliate program related to token-based acquisition of investors. The profits under the program depend on recruiting other consumers into the scheme, which may indicate a pyramid-type incentive scheme. UOKiK has also doubts about unfounded assurances about the profits generated by the companies and intensive marketing in a particularly sensitive consumer group – the deaf community.

International Markets Live is another company charged with recruiting into pyramid-type incentive schemes. The Company offers educational packages containing materials from the fields of finance and e-commerce. The analysis of the collected material shows that educational activities are intended to create the appearance that the project is legal and to conceal its actual objective, which is to obtain money from platform users. The President of UOKiK issued a consumer alert on this matter.

► Syndicate scheme

The President of UOKiK charged InCruises International with the operation of a syndicate scheme prohibited by law (commonly known as “Argentinian scheme”). In this case, the scheme may consist of managing the money collected from the members to finance cruises on passenger ships. In addition, the company recruits so-called partners, who are paid to persuade others to join the program. A consumer alert has also been issued in the case, as such schemes caused severe losses to consumers in the past.

► Actions towards influencers

UOKiK continued its activities related to the monitoring of commercial content in social media. As a result, 3 online creators from the fitness industry, as well as their advertiser Olimp Laboratories, were charged with improper tagging of advertisements. The company entered into agreements for product promotion at Instagram for consideration. In its correspondence with authors, the company urged them to use unclear tags contrary to UOKiK’s recommendations. Moreover, 6 influencers were punished for lack of cooperation with the Office (final decisions: RBG-3/2022, RBG-4/2022, RBG-5/2022, RBG-8/2022, decisions under appeal: RBG-6/2022, RBG-7/2022). The Authority’s interventions in this market segment were accompanied by educational activities. UOKiK also published “Recommendations of the President of UOKiK pertaining to the tagging of advertising content by influencers” (more information: 3.3 Information and educational activities).

► Advertisements on websites

UOKiK also checked how commercial communications were tagged on popular websites, including sponsored articles and native advertising. Some of the commercial content under review have not been tagged at all. In other instances, the phrases used by the websites were questionable in terms of their clearness and legibility of ad tags. Ringier Axel Springer Polska and Wirtualna Polska Media received the first allegations in this matter.

► False opinions on the Internet

The President of UOKiK imposed the first fines for trading fake reviews and ratings posted on the Internet, which

UOKiK'S ACTIVITIES

The Office participated in the audit
of the European Commission and Consumer Protection
Cooperation network, which showed that

nearly 40%

of the 399 examined e-stores rely on at least one of the 3

dark patterns

under investigation: fake countdown timers,
misleading interface, hiding information.

allegedly came from buyers. In this way, consumers were misled about products or services. In his decision on Opinie.pro (RKT-3/2022) the President of the Office ordered the company to cease and desist the contested practices and imposed a sanction of PLN 40 thousand. The company lodged an appeal against the decision. In the case of SN Marketing (RPZ-9/2022), which ceased to create false opinions, the sanction amounted to PLN 30 thousand. The decision is final.

► **Dark patterns**

These are practices that use knowledge of user behaviour to affect user decisions. Employed in applications and websites in e-stores, they force unintended or unwanted actions by consumers. In particular, they may relate to the lack of transparent information on prices or rules for searching and sorting products. In this regard, the President of UOKiK issued a decision on Vinted UAB (DOZIK-8/2022), which operates an online platform (application) for selling clothes. Consumers were not informed of how they could transact without an additional paid service, the so-called buyer protection. Moreover, the company did not inform users about the identity verification procedure, which could make it difficult to receive money from the sale of items through the platform. During the proceedings, the company changed the way it informed users about this, which contributed to the reduction of the sanction. The total penalty amounted to nearly PLN 5.4 million. The company lodged an appeal against the decision. Furthermore, the President of UOKiK instituted proceedings against OLX. The proceedings focused on,

among others, misleading sorting of offers according to the lowest price on the Internet platform.

► **Terms and conditions of the Internet platform**

The case concerns modification clauses provided for in the Allegro Terms & Conditions and the Allegro Smart Terms & Conditions, which allow the undertaking to make unilaterally amend contracts, without clearly specifying the reasons behind the introduction of such amendments. The contested clauses are also of a highly general character, meaning the platform may introduce changes in an uncontrolled manner. Allegro was fined nearly PLN 4 million. The Company appealed against the decision (DOZIK-16/2022).

► **Execution of orders through the Internet platform**

The President of UOKiK instituted proceedings against the Amazon shopping platform. The allegations concern misleading consumers, among others, about the time of purchase. The company considers that it is not obliged to deliver the goods and is free to carry out or cancel an order, including in cases where such order has been placed and confirmation has been received. Moreover, consumers are not duly informed of the estimated nature of the presented product availability or delivery dates. In addition, UOKiK has reservations concerning the way in which consumers are informed about their rights in connection with the “guaranteed delivery” offer.

► **Online payments**

PayPal may have been using abusive clauses in model contracts used in consumer relations. The allegations of the President of UOKiK concern 3 clauses of the “PayPal User Agreement”: a list of prohibited actions, a list of sanctions, and a ban on using an account when it is either blocked or suspended. The Office believes that the content contained in said document may be contrary to good practices and lead to a gross disproportion of rights and obligations between the consumer and the undertaking.

► **Automatic activation of services**

The case concerned automatic activation of additional paid services, which occurred as part of conclusion or renewal of a telecommunications contract. The services were activated without the explicit consent of consumers, and subscribers were obliged to cancel them before the end of the trial period. The telecommunications operators – Orange (decision DOZIK-4/2022) and P4 (decision DOZIK 7/2022) – have

2.5 Out-of-court consumer dispute resolution system

undertaken to change their practices and reimburse former and current subscribers for the losses they incurred. Both decisions are final. In 2021, the President of UOKiK issued an analogous decision in relation to Netia (decision RKR-13/2021). The decision is final.

► Unwarranted amendment of contracts

The President of UOKiK has concluded proceedings against telecommunications operator Vectra, which amended the clauses of the existing open-ended contracts without a legal basis. Based on a unilaterally introduced clause, the operator increased internet and TV fees. Vectra was fined PLN 22.3 million (RBG-15/2022), and the company was ordered to cease and desist the contested practices and remedy their consequences. It is also obliged to reimburse consumers for the unwarranted portion of the subscription fees for the period in which they were charged. The decision is not final.

PROCEEDINGS against telecommunications operators instituted in 2022 – examples

subject matter	undertakings
excessive costs of calls to hotlines intended for reporting defects and making complaints	Orange, Nju Mobile
activation of an additional paid service “Safe Internet” without the explicit consent of the consumer	Vectra
punishing consumers with the loss of e-invoice discount if they fail to pay their subscription or other fees indicated on the bill on time	P4

► Excessive costs of early termination

UOKiK’s proceedings found that UPC overstated the discounts granted to its customers that serve as the basis for calculating the termination fee for fixed-term telecommunications contract. As a result, customers had to pay more for termination of contract than they would have to pay for its renewal. Pursuant to the law, the amount receivable due to termination by or for reasons attributable to a subscriber cannot exceed the amount of the awarded benefit reduced proportionately to the period

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from contract execution until its termination. The company was fined PLN 12.5 million. In addition, UPC must change the contested practices and reimburse the consumers for incorrectly charged fees (decision DOZIK-13/2022). The company lodged an appeal.

► Inflation adjustment clauses in telecommunications contracts

The instituted proceedings concern the so-called inflation adjustment clauses included in fixed-term contracts by Orange Polska, P4, T-Mobile Polska, Vectra, and Multimedia Polska. These clauses allow the operator to change the amount of fees during the term of the contracts. Price hikes depended on the annual average consumer price index announced by Statistics Poland. UOKiK will check whether the new clauses are not an attempt to pass on the costs of changing economic situation to consumers.

► New Year’s Eve TV competition

The President of UOKiK made allegations against Telewizja Polsat and Teleaudio Dwa, which were responsible for holding the 2021 New Year’s Eve text message contest. Contrary to the announcements, in order to be eligible to win, consumers had to send several paid text messages (not one), while the grand finale of the contest was neither 31 December nor 1 January. The charges relate to both the contents of verbal and graphic announcements made during the live broadcast of the New Year’s Eve greatest hits concert, as well as the content of text messages that concerned the course of the contest and were sent to participants during the contest.

► Subscription instead of one-off service

The President of UOKiK imposed a fine of nearly PLN 750 thousand on Logo-Sharing from Sopot, which was responsible for renting scooters in tourist destinations. In its information messages addressed to consumers, the company made the impression that consumers would only pay for one ride on a scooter. In fact, they were taking out a regular, paid subscription with difficult access to information how to cancel it. The decision (RGD-1/2022) is final. In addition, thanks to the Office’s intervention, app stores removed the Logo-Sharing’s offer while the proceedings were still pending. UOKiK is also taking action against Logo-Sharing LLC from Tbilisi, which took over the operations of the penalised company from Sopot. The President of UOKiK notified the prosecutor’s office of the activities of both companies.

2.1 Practices infringing collective consumer interests...

► Sale of used cars

The President of UOKiK instituted proceedings against Autocentrum AAA Auto – a leading used car dealer. The main concern is the lack of full information about the final price of the car at the moment of making the purchase decision. Consumers would book a vehicle of their choice, but it was only when visiting the Autocentrum showroom that they found out that an additional fee would be added to the price shown, with salespeople giving a variety of reasons for this. In separate proceedings, the President of UOKiK also challenged the contractual clauses used by the company, which may have rendered it possible for the company to avoid liability for possible vehicle defects.

► Replacement cars

Consumers reported to the Authority insurance companies' practices involving the clause of replacement vehicles after an accident. The complaints concerned, among others, insufficient access period and unfavourable terms of lease (e.g. high contractual penalties). The President of UOKiK launched preliminary investigations against 4 companies: Compensa, Vienna Insurance Group, Generali, Link4, and Allianz to verify the rules for providing replacement cars to injured drivers.

► Promotional campaign

The case concerns the "Biedronka Anti-Inflation" promotional campaign in a chain store owned by Jeronimo Martins. The undertaking assured that if customers found the promotional products at more favourable prices, they would be reimbursed for the difference. Contrary to the advertising slogans, the terms of the promotional regulations were very complicated and customers found it burdensome to meet them. Moreover, the regulations were not displayed in brick-and-mortar stores. The President of UOKiK charged Jeronimo Martins misleading consumers.

► Unfair practices in photovoltaics

The growing interest of consumers in PV installations is accompanied by an increasing number of complaints about this industry. In 2022, the Authority has therefore conducted preliminary investigations and proper proceedings. The President of UOKiK issued his first decision in this matter (RŁO-7/2022), imposing a fine of over PLN 28 million on BO Energy (formerly FG Energy). The company tried, among others, to prevent customers from withdrawing from an off-premises contract free of any charge. Furthermore,

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consumers were misled about the company's cooperation with the Ministry of Climate, as well as the gratuitous nature of the preliminary audit related to the installation of photovoltaics. The decision also provides for money refund to consumers who have withdrawn from the contract. The company lodged an appeal against the decision.

► Failure to provide service on time

The case concerned Poczta Kwiatowa, a company offering flower delivery service. In its marketing communications, Poczta Kwiatowa encouraged customers to place orders for holidays (e.g. Mother's Day, Valentine's Day) when it could not guarantee timely service delivery. The company included in an annex to the by-laws a clause to avoid liability for non-performance and protect itself in the event of a complaint. Through the abusive clause, the company has unlawfully tried to exclude its liability for non-delivery or improper delivery of the service. The undertaking appealed against the decision (RKR-1/2022) under which it was obliged to pay a fine of over PLN 1.6 million.

► Falsification of fabric's fiber composition

The President of UOKiK imposed a fine of over PLN 2.1 million in total on companies producing men's formal wear – Kubenz, Recman, and Dastan Logistics – for falsification of product composition. As shown by the inspections of the Trade Inspection and laboratory tests, the information on the labels of the composition of the clothes did not conform to reality. In the course of UOKiK's activities, Recman and Kubenz changed the labels to match the actual composition, which was confirmed by additional laboratory tests. Dastan Logistics changed the labelling of products only for those whose composition did not agree with the laboratory results, which is why the decision imposed an obligation on the undertaking to cease and desist the contested practices with immediate enforceability. The decision against Kubenz (RBG-1/2022) and Dastan Logistics (RKT-1/2022) is final, whereas Recman (DOZIK-5/2022) lodged an appeal against the decision in which the sanction amounted to PLN 1.1 million.

► Sale of dietary supplements

The President of UOKiK instituted proceedings against Natural Pharmaceuticals, a company offering dietary supplements through distance selling. The allegations concern, among others, non-transparent information and the ordering process, which may have resulted in consumers being unaware that they were subscribing for the annual

supply programme. UOKiK's reservations are also raised by undertaking's advertisements, which are supposed to make the purchase of supplements credible in the eyes of consumers, including by references to the European Food Safety Authority or by providing incorrect information about the number of satisfied customers relating to a given supplement.

► Unfair trade shows

Expectes invited consumers to the presentations under the excuse of participating in a campaign which was intended to save jobs but which in reality did not exist. The hidden aim of the meetings was to sell, among others, household appliances. Telemarketers concealed the undertaking's true identity and referred to a non-existent foundation. In addition, the company promised gifts for attending the meetings, but in reality the gifts were not free. Misleading information also concerned the existence of an alleged sponsor of the meetings and the organisation of a prize draw during the show. The President of UOKiK imposed a fine of PLN 2.3 million on the company. The decision (RPZ-6/2022) is final.

New Life was also punished for concealing the sales nature of the meetings. In addition, the company misled consumers as to the possibility of receiving a valuable prize for participation in the show, as well as the special promotional price of the products offered. The President of UOKiK ordered the company to cease and desist the contested practices and imposed a fine of PLN 1.2 million. The sanctions also extended to the company's CEO who deliberately engaged in the unfair practices and obstructed the UOKiK's inspection. The total amount of the penalty in this case amounted to PLN 225 thousand. The cases concerning the decisions (RPZ-3/2022, RPZ-4/2022) were appealed.

2.2

SUPERVISION OVER THE TRADE INSPECTION

The Trade Inspection (IH) is a specialised supervision authority appointed to protect consumer interests and rights. Its duties are performed by the President of UOKiK and voivodeship Trade Inspection inspectors who conduct inspections of undertakings, provides, and services and issue relevant decisions. The President of the Office sets the directions of inspections and monitors their execution. He also carries out appeal proceedings against the decisions of voivodeship inspectors³⁷.

Activities of national importance are reflected in the Trade Inspection's annual inspection plan. They are determined primarily based on the irregularities identified in previous years, their significance, and the prevalence of the product category. Inspectors also perform unscheduled inspections resulting from complaints and information received from, among others, consumers or state administration bodies. The inspections include laboratory tests performed by both UOKiK laboratories (more information: 2.4 Laboratories) and external laboratories.

DECISIONS OF THE PRESIDENT OF UOKiK in 2022

220

decisions on appeals against decisions issued
by voivodeship inspectors of the Trade Inspection

³⁷ The Act of 15 December 2000 on Trade Inspection (Journal of Laws of 2020, item 1706).

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TRADE INSPECTION'S INSPECTIONS in 2022

381 1,129

general product safety
inspections

product conformity
assessment

1,756 305

fuel quality

solid fuel quality

488 18,233

solid fuel quality
certificate

**in the field of non-food
products, services and
obligations of undertakings**

ACTIVITIES OF VOIVODESHIP TRADE INSPECTION INSPECTORS in 2022 based on inspections carried out – examples

decisions issued 3,492

request to undertakings to rectify
irregularities 1,911

notifications to law enforcement
agencies 121

fines imposed 1,594 fines with
a value of PLN
305.4 thousand

number of motions filed to courts to
penalise the offenders 278 motions with
a value of PLN
54,140

cases referred to other competent
authorities 1,196

INSPECTIONS RELATING TO NON-FOOD PRODUCTS, SERVICES AND OBLIGATIONS OF UNDERTAKINGS IN 2022

INSPECTIONS CONDUCTED – by type

scheduled inspections conducted by
UOKiK 5,420

scheduled inspections conducted by
voivodeship Trade Inspection inspectors 2,447

unscheduled inspections 10,366

RESULTS of inspections

inspected product batches 849,102

contested product batches 116,167

Examples of inspections

► Labelling of cosmetics

In 2022, the Trade Inspection checked the correctness of labelling of different types of cosmetics and the correctness of marketing of these products, together with marketing claims concerning the effects of cosmetics included on packaging. The Trade Inspection carried out 255 inspections, covering 237 retailers and 18 wholesalers. The Trade Inspection checked colour cosmetics (e.g. eye shadows, lipsticks and powders) as well as nail varnishes and hair shampoos. A total of 1,984 product batches were inspected, with nearly 38% of them being subject to various irregularities. The most common reservations concerned the lack or inaccuracy of information on the ingredients and functions of the product and exceeding the shelf life. As a result, the Trade Inspection issued 81 decisions with fines totalling PLN 67,350³⁸.

► Labelling and quality of outerwear

In the first half of 2022, the Trade Inspection carried out 114 inspections of textile products. The inspections concerned the correctness of labelling and the quality of these products – outerwear, including compliance of the actual composition of the raw materials with the manufacturer's composition. The inspections covered 91 retail outlets,

38 Applicable to fines imposed pursuant to the Cosmetic Products Act of 4 October 2018 (Journal of Laws of 2018, item 2227).

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20 manufacturers/primary distributors and importers, and 3 wholesalers. The Trade Inspection assessed the labelling and the quality of 647 pieces of outerwear and questioned every fourth. Some of the products were tested in a laboratory, which showed discrepancies between the composition and the label in nearly 30% of the cases examined. As a result of the inspections, undertakings took voluntary corrective actions which resulted in changes to the incorrect labelling or have returned the contested products to their suppliers. In connection with the irregularities found during laboratory tests, the undertakings were charged with the costs of these tests – 128 decisions were issued for a total amount of PLN 71,691. In addition, the inspection materials are analysed for infringements of collective consumer interests and may serve as the basis for the initiation of proceedings in this respect.

EXAMPLES OF INSPECTION TOPICS

batteries	– as regards the correctness of trade
jewellery and imitation jewellery	– as regards nickel, cadmium, and lead content
detergents	– as regards the correctness of labelling
excise goods	– as regards the correctness of trade

GENERAL PRODUCT SAFETY AND CONFORMITY ASSESSMENT INSPECTIONS IN 2022

INSPECTIONS CONDUCTED – by type

type	general product safety inspections	conformity assessment inspections
scheduled inspections conducted by UOKiK	206	526
scheduled inspections conducted by voivodeship Trade Inspection inspectors	96	351
unscheduled inspections	79	252

INSPECTED ENTITIES – by scope of inspection

1,510 **in total**

including:

381

entities subject to general product safety inspection

1,129

entities subject to conformity assessment inspections

RESULTS OF INSPECTIONS

general product safety

- 771 tested product batches
- 248 product batches contested on safety grounds

conformity assessment

- 1,746 tested product types
- 745 contested products (irregularities found)

LABORATORY TESTS

laboratory tests for general product safety

- 94 product batches tested in laboratories
- 37 contested products

laboratory tests for conformity assessment

- 753 products tested in laboratories
- 187 contested products

Examples of inspections

► Safety of microwave ovens

In the first half of 2022, the Trade Inspection checked 21 microwave models for safety, e.g. whether the live parts are properly shielded and whether the manufacturers label their equipment correctly. 20 of the inspected models have been tested in a laboratory, and all of them have been found safe for users. The Trade Inspection questioned 4 models on formal grounds, such as lack of warnings on maintenance and use of the appliance or lack of instructions in Polish. In all cases, undertakings took voluntary corrective actions and provided evidence to the Trade Inspection.

► Toy safety

In Q1, Q2 and Q3 2022, the Trade Inspection checked infant sound toys, projectile toys and activity boards – a total of 85 models – for safety. The purpose of the inspections was to verify whether they are adequately labelled and their design does not endanger the youngest consumers. The largest percentage of irregularities concerned activity boards for children under 3 years of age – 8 out of 14 tested models were contested, 7 of which as a result of laboratory tests. Undertakings took corrective action, for example, they remedied labelling deficiencies or withdrew non-conforming toys from the market and informed consumers about the irregularities found. In total, the President of UOKiK instituted 16 administrative proceedings for product recalls.

EXAMPLES OF INSPECTION TOPICS

bath products for children

home electronics

personal protective equipment

pyrotechnic products

FUEL AND SOLID FUEL QUALITY MONITORING AND CONTROL SYSTEM IN 2022

The President of UOKiK manages the fuel and solid fuel quality inspection and monitoring system, the purpose of which is to eliminate fuels which do not comply with quality requirements from the market. The results of the inspections are used in administrative proceedings conducted both by voivodeship Trade Inspection inspectors, the President of UOKiK, and the President of the Energy Regulatory Office in accordance with their respective competences. Fuel inspections are carried out in two ways. The first type of inspection is carried out under the European surveillance system and includes randomly selected entities. The second type of inspection involves stations selected on the basis of negative results of previous inspections, as well as complaints and information from consumers and the police, among others. In this case, laboratory tests are more likely to show non-compliance with quality requirements than in the case of random sampling. Meanwhile, in the case of solid fuels, inspections concern both the fulfilment of quality requirements (defined by law and declared) and the fulfilment by undertakings of the obligation to issue solid fuel quality certificates and to provide their copies to consumers.

FUEL INSPECTIONS

1,756

total entities inspected

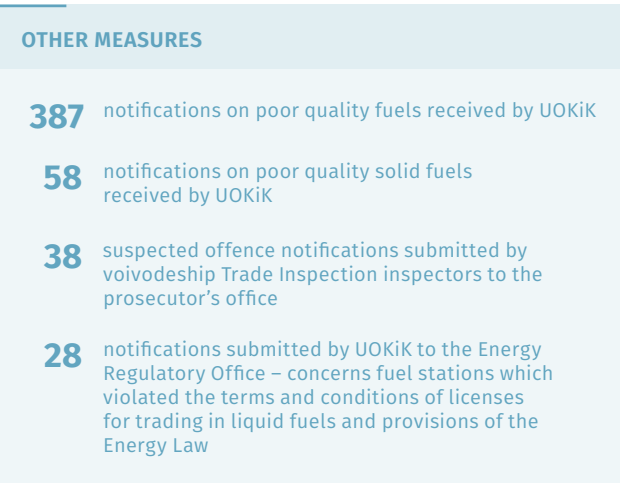
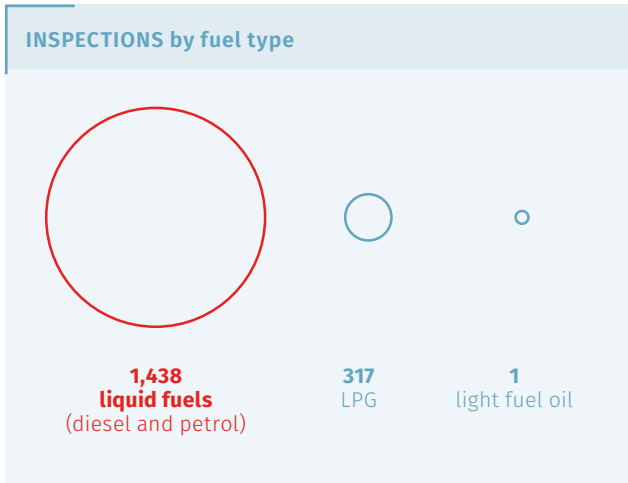
including: 1 721 fuel stations

35 other entities
(i.a. fuel wholesalers)

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INSPECTION RESULTS by fuel type and inspection				
fuel type	inspections based on RANDOM SELECTION		inspections based on INFORMATION RECEIVED	
	samples tested	fuels not meeting quality requirements (in %)	samples tested	fuels not meeting quality requirements (in %)
diesel fuel	452 	 1.99	313 	 3.19
petrol	629 	 0.16	204 	 0.49
LPG	273 	 1.47	44 	 13.64
light fuel oil	1 	 0	0 	 0



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2.3 PRODUCT SAFETY AND MARKET SURVEILLANCE

The President of UOKiK exercises general safety supervision over products intended for consumers³⁹. The President conducts proceedings to eliminate risks to human health and life. Products deemed by the President of the Office as non-compliant with the safety requirements are entered in the register of dangerous products. The Office acts as the national contact point for the EU Safety Gate/RAPEX system⁴⁰, which is intended for the rapid exchange of information between EU Member States and the European Commission on risks posed by non-food products. UOKiK also analyses notifications on dangerous products from undertakings and monitors the implementation of corrective actions.

The President of the Office monitors the functioning of the market surveillance system in Poland⁴¹ in terms of compliance of products with requirements laid down in harmonised EU laws. This system is made up of national authorities entitled to control non-food products. The President of the Office also conducts proceedings for the compliance of products for which the CE marking is mandatory⁴². UOKiK is also responsible for the national contact point for the ICSMS system⁴³, which has become the EU's primary system for the exchange of information as well as collection and processing of data related to the enforcement of market surveillance tasks.

As part of the proceedings, the President of UOKiK may impose a fine or certain obligations on the manufacturer or distributor, including the obligation to withdraw products from the market. In practice, many businesses voluntarily



39 Supervision is exercised in accordance with the General Product Safety Act of 12 December 2003 (Journal of Laws of 2021, item 222).

40 Safety Gate: the EU rapid alert system for dangerous non-food products.

41 Supervision is exercised in accordance with the Act of 30 August 2002 on Conformity Assessment System (Journal of Laws of 2023, item 215) and the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems (Journal of Laws of 2022, item 1854).

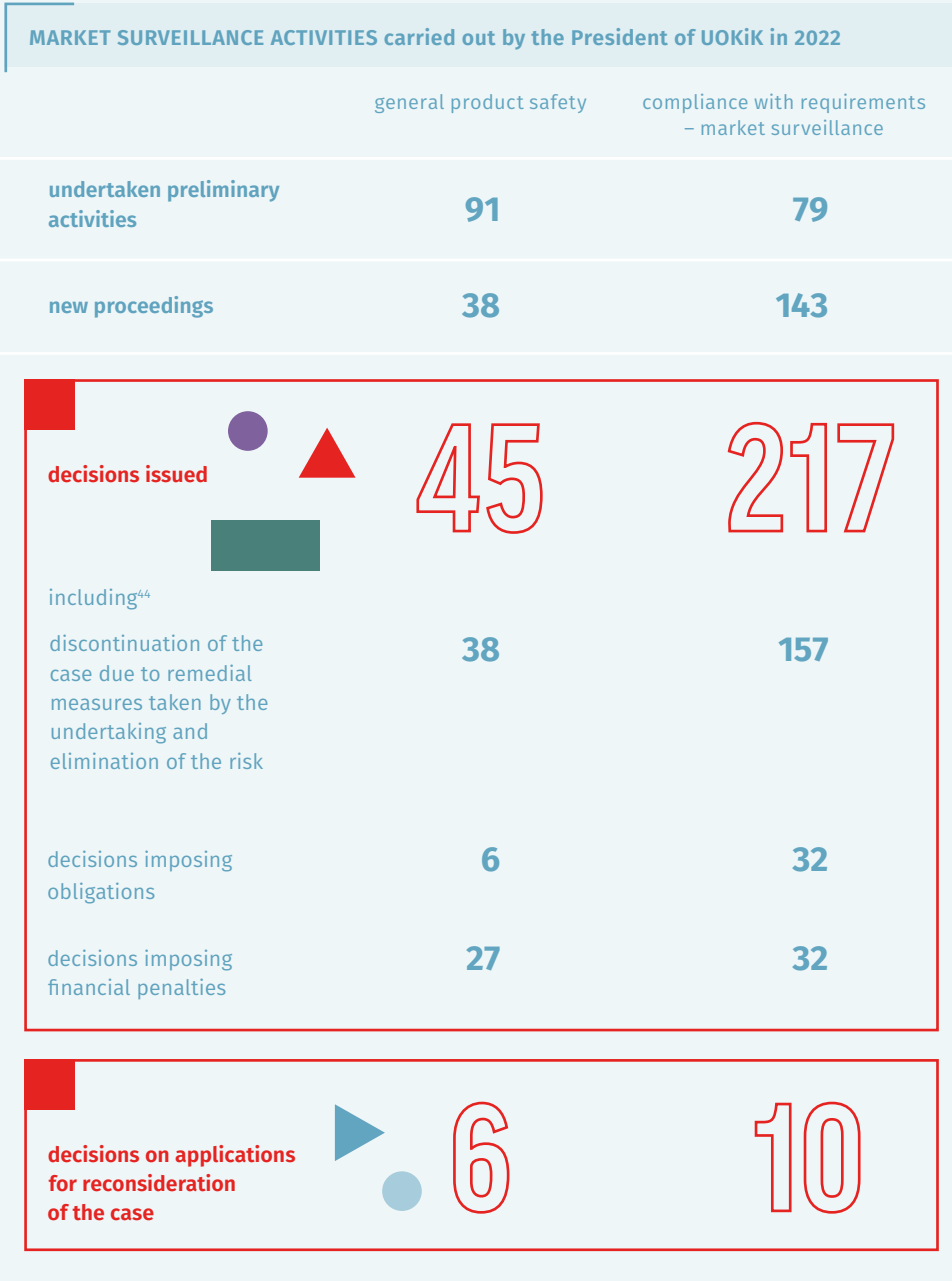
42 CE marking is the manufacturer's declaration that the product placed on the market complies with the harmonised requirements laid down in EU harmonised legislation. CE marking applies only to certain product categories – among others electrical appliances (including electronics and household appliances).

43 Information and Communication System on Market.

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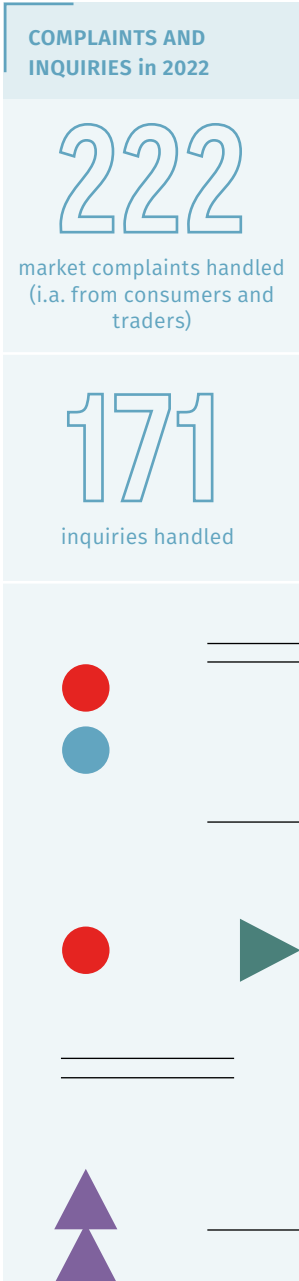
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take measures to remove nonconformities when the proceedings are still pending. The Office's activities are related to inspections conducted by the Trade Inspection in the area of general product safety and the EU market surveillance system (more information: 2.2 Supervision over the Trade Inspection).

44 Examples of types of decisions have been provided, but this data is not included in the total number of issued decisions. Pursuant to the General Product Safety Act, it is possible to issue different decisions, which often combine different categories – e.g. decisions to discontinue proceedings and impose a penalty or simply discontinuing the proceedings, decisions imposing obligations with or without a financial penalty, decisions imposing only a financial penalty.



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GENERAL PRODUCT SAFETY ACTIVITIES IN 2022



MOST COMMON ACTIVITIES by product

products for children heat-resistant dishes grills

EFFECTIVENESS of UOKiK's activities

TOTAL

14 warnings

13,805 products withdrawn from the market

18,877 products from which risks were removed

EXAMPLE – heat-resistant dishes

3 warnings

6,410 products withdrawn from the market

SAFETY GATE/RAPEX system

173 UOKiK notifications concerning more than **1.6 million products**

2,117 notifications by EU Member States, including 124 pertaining to products manufactured or imported by Polish undertakings

MOST FREQUENTLY notified products under the Safety Gate/RAPEX system

notifications from Poland	EU notifications
104 toys	489 toys
19 electrical equipment	346 motor vehicles
12 machines	212 cosmetics

ICSMS system

32 reactions of UOKiK to notifications from other countries under the ICSMS system

74 products reported by EU Member States

ACTIVITIES RELATING TO PRODUCT COMPLIANCE WITH EU REQUIREMENTS IN 2022

48 products entered in the register of non-conforming or hazardous products

17 products removed due to fulfilment of statutory requirements

MOST COMMON activities by product

toys electrical equipment personal protective equipment

TOTAL

169 notifications of non-conformities

103,327 products withdrawn from the market

2,963 products in which non-conformities were removed

EXAMPLE – electrical and electronic equipment

32 notifications of non-conformities

22,668 products withdrawn from the market

301 products in which non-conformities were removed

2.5
Out-of-court
consumer dispute
resolution system

2.6
Cooperation
with consumer
organisations...

2.7
European Consumer
Centre at UOKiK

2.4

LABORATORIES

UOKiK manages 3 laboratories performing tests on liquid fuels, toys, textiles, and other non-food items. The tests are performed primarily in connection with the inspection activities of the Trade Inspection and serve to withdraw products that do not meet requirements or pose a threat to consumers from the market. The laboratories are continuously developing their scope of accreditation and implementing new test methods.

DEVELOPMENT OF LABORATORIES in 2022

- extension of the scope of accreditation by 10 test methods
- implementation of 9 new test methods
- participation in 11 proficiency testing and inter-laboratory comparison programmes

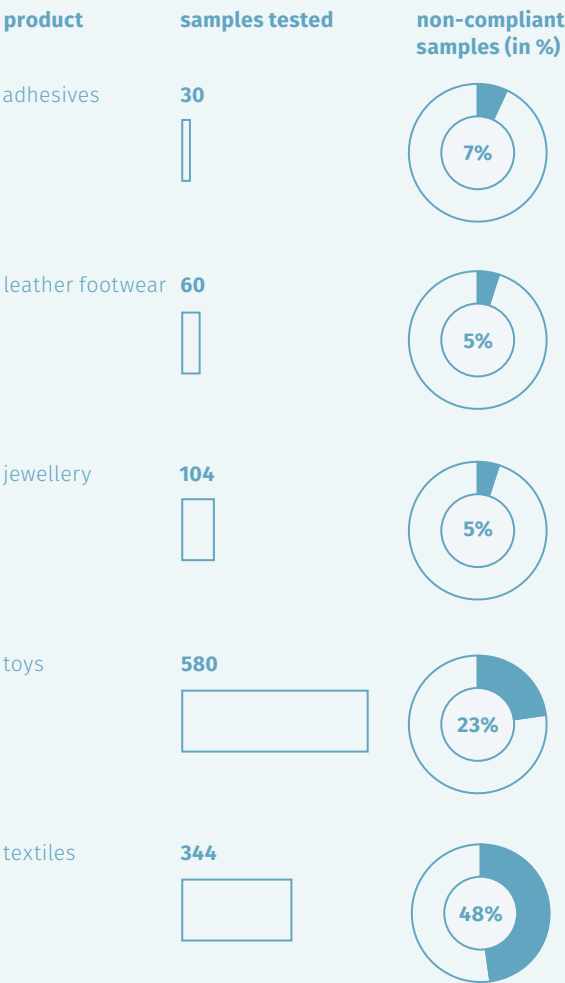
UOKIK LABORATORY TESTS conducted for the Trade Inspection in 2022

2,040
samples tested

27,221

parameters specified for the samples tested

EXAMPLES – by product



2.1
Practices infringing
collective consumer
interests...

2.2
Supervision over
the Trade Inspection

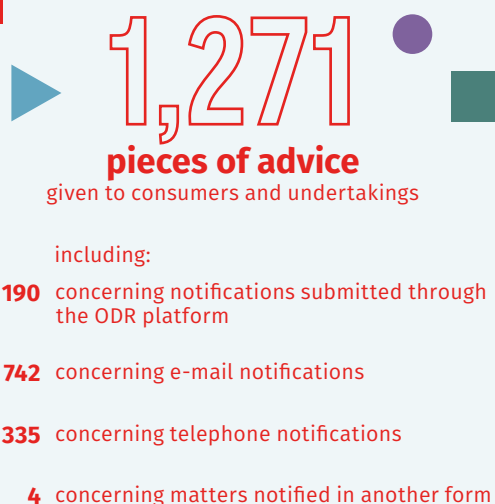
2.3
Product safety and
market surveillance

2.4
Laboratories

2.5 OUT-OF-COURT CONSUMER DISPUTE RESOLUTION SYSTEM

The President of UOKiK supervises the out-of-court consumer dispute resolution system in Poland (also known as ADR – Alternative Dispute Resolution)⁴⁵. It is made up of institutions conducting amicable proceedings between consumers and undertakings on matters falling within their competence. The Trade Inspection, as a horizontal institution, deals with matters for which no sector-specific entity has been established. The President of UOKiK conducts proceedings concerning entries into the register of ADR entities. In addition, he monitors the implementation of statutory obligations by authorised entities, among others, on the basis of annual reports. The Office operates an ADR/ODR contact point, which provides information on consumer rights, amicable proceedings, and geoblocking. The Online Dispute Resolution (ODR) platform is an online tool for resolving disputes between consumers and undertakings which enables the filing of complaints about goods or services purchased online, both domestically and in all EU countries, Liechtenstein, and Norway. The ODR platform is managed by the European Commission.

ADR/ODR contact point



2.5 Out-of-court consumer dispute resolution system

2.6 Cooperation with consumer organisations...

2.7 European Consumer Centre at UOKiK

MOST FREQUENTLY REPORTED categories of cases

transport services

airlines – problems with recovery of funds and payment of compensation in the event of flight delay or cancellation

consumer goods

clothing and footwear, computer equipment, furniture – problems with getting a refund when withdrawing from the contract, rejection of complaints by the seller, non-delivery of products ordered online, dropshipping

leisure services

hotels and other leisure facilities – problem with getting a refund on booking cancellation, facilities not matching the description

financial services

current accounts and payment services – remittances (especially foreign) and online payments

ADR ENTITIES in Poland in 2022⁴⁶

SECTOR ENTITIES

PUBLIC		NON-PUBLIC	
financial and insurance services	<ul style="list-style-type: none"> • The Financial Ombudsman • The Court of Arbitration to the Polish Financial Supervision Authority 	services offered by banks	The Banking Arbitrator to the Polish Bank Association
telecommunications and postal services	The President of the Office of Electronic Communications	sale of food products	The Centre for Alternative Resolution of Disputes Concerning Food
energy services	The Negotiation Coordinator to the President of the Energy Regulatory Office	contractual services with undertakings that are participants in the financial market, insurance companies, mobile phone operators, cable TV operators, media providers and traders in receivables from contracts in the financial market, insurance, mobile phone, cable TV, and media supply	“Ultima Ratio” Electronic Dispute Resolution Centre
railway transport services	The Rail Passenger Rights Ombudsman to the President of the Office of Rail Transport		
air transport services	The Passenger Rights Ombudsman to the President of the Civil Aviation Authority		

PUBLIC HORIZONTAL ENTITY

The Trade Inspection

sale of goods and services, in cases not covered by other specialised entities, including tourism, real estate development, education, and renovation and construction services

45 The Act of 23 September 2016 on Out-of-Court Consumer Dispute Resolution (Journal of Laws of 2016, item 1823).

46 As at 31 December 2022.

2.1
Practices infringing
collective consumer
interests...

2.2
Supervision over
the Trade Inspection

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Product safety and
market surveillance

2.4
Laboratories

2.6

COOPERATION WITH CONSUMER ORGANISATIONS AND CONSUMER OMBUDSMEN

Cooperation with municipal and district consumer ombudsmen is an important part of UOKiK's efforts to effectively protect consumer interests. The Office prepares, among others, a special newsletter for ombudsmen and provides free promotional materials related to consumer rights. The President of UOKiK is assisted by the National Council for Consumer Ombudsmen which acts as an opinion and counselling body.

The Office also cooperates with consumer organisations, i.a. within the framework of education campaigns, consumer advice, exchange of information on market violations, and assessment of legal acts. A special form of cooperation is competitions for non-governmental organisations to carry out duties aimed at raising awareness about consumer rights and providing legal assistance⁴⁷. Permanent projects in this regard include free nationwide counselling: consumer helpline and e-advice.

SUMMARY OF GRANTS AWARDED in 2022

project	organisation	grant amount	effects
Consumer counselling	ProPublika Foundation	PLN 1.4 million	<ul style="list-style-type: none">• 89,350 telephone consultations• 27,054 e-mail consultations• 11 webinars on consumer rights• development and implementation of a form-based advisory system
ABC of the Young Consumer	The Foundation for the Development of Digital Education	nearly PLN 75 thousand	<ul style="list-style-type: none">• 134 kindergartens• 4,222 children• 186 trained teachers as part of 9 training courses
Youth with rights @ modern times	LexCultura Foundation	PLN 125 thousand	<ul style="list-style-type: none">• 83 schools• 520 classes• 12,379 students

⁴⁷ Grants are awarded by the President of UOKiK in accordance with the provisions of the Act of 24 April 2003 on Public Benefit Activities and Volunteering (Journal of Laws of 2022, item 1327, as amended).

2.5
Out-of-court
consumer dispute
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Cooperation
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UOKiK allocated
PLN 1.6 million
to provide legal assistance
to consumers and education.

CONSUMER COUNSELLING in numbers

over
116,000
pieces of advice provided



11

webinars on consumer rights



2.7 EUROPEAN CONSUMER CENTRE

The European Consumer Centre Poland (ECC Poland) operates at UOKiK and is part of the European Consumer Centres Network (ECC-Net)⁴⁸. ECC Poland provides free advice to consumers regarding their rights in the EU single market and helps them solve individual cross-border problems in an out-of-court way.

In addition, the Centre carries out activities promoting European consumer rights while supporting the EC's information activities. It also cooperates with consumer protection institutions as well as business and consumer organisations. The ECC provides UOKiK with information on potential infringements of collective consumer interests.

COMPLAINTS received by ECC in 2022

6,854
inquiries handled

including:

- 4,240** cross-border complaints against companies from other EU countries, including 1,692 mediations conducted on behalf of Polish consumers
- 2,614** inquiries (domestic cases, questions from undertakings, complaints against undertakings outside the EU, Norway, Iceland, and Great Britain)

⁴⁸ The ECC-Net network is co-financed by the European Commission. It includes 30 centres in EU Member States and in Norway, Iceland, and Great Britain.

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Practices infringing
collective consumer
interests...

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MOST FREQUENTLY REPORTED to ECC categories of cases in 2022

AIR TRANSPORT
delayed and cancelled
flights

PURCHASE OF CLOTHES
withdrawal from
contract, defective goods,
non-delivery

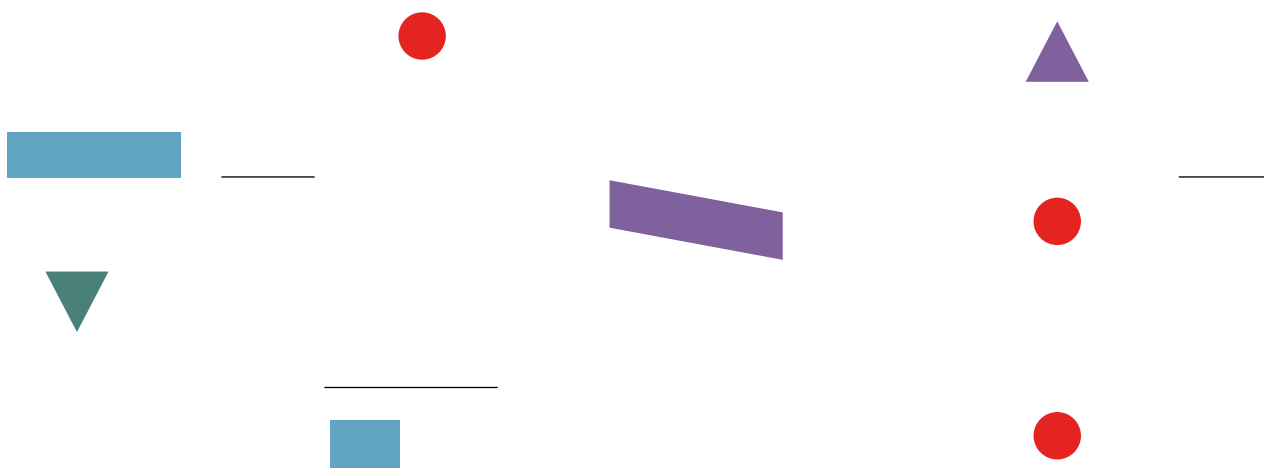
ACCOMMODATION
misleading offers, booking
and payment problems

DATING SERVICES
automatically renewed
contracts

SALES PLATFORMS
problems with the
purchasing process

EXAMPLES OF ECC EDUCATIONAL ACTIVITIES in 2022

action	"Feel the magic of consumer rights" online campaign	#WakacyjnaReklamacja ["Holiday Complaint"] social media campaign	educational classes in secondary schools	support for Ukrainian consumers in Europe – preparation of informa- tion materials in English and Ukrainian ⁴⁹
subject matter	safe online shopping	cancelled and delayed flights, problems with hotel, luggage and ren- ted car – holiday advice	safe online shopping, consumer rights	travel and shopping in the EU

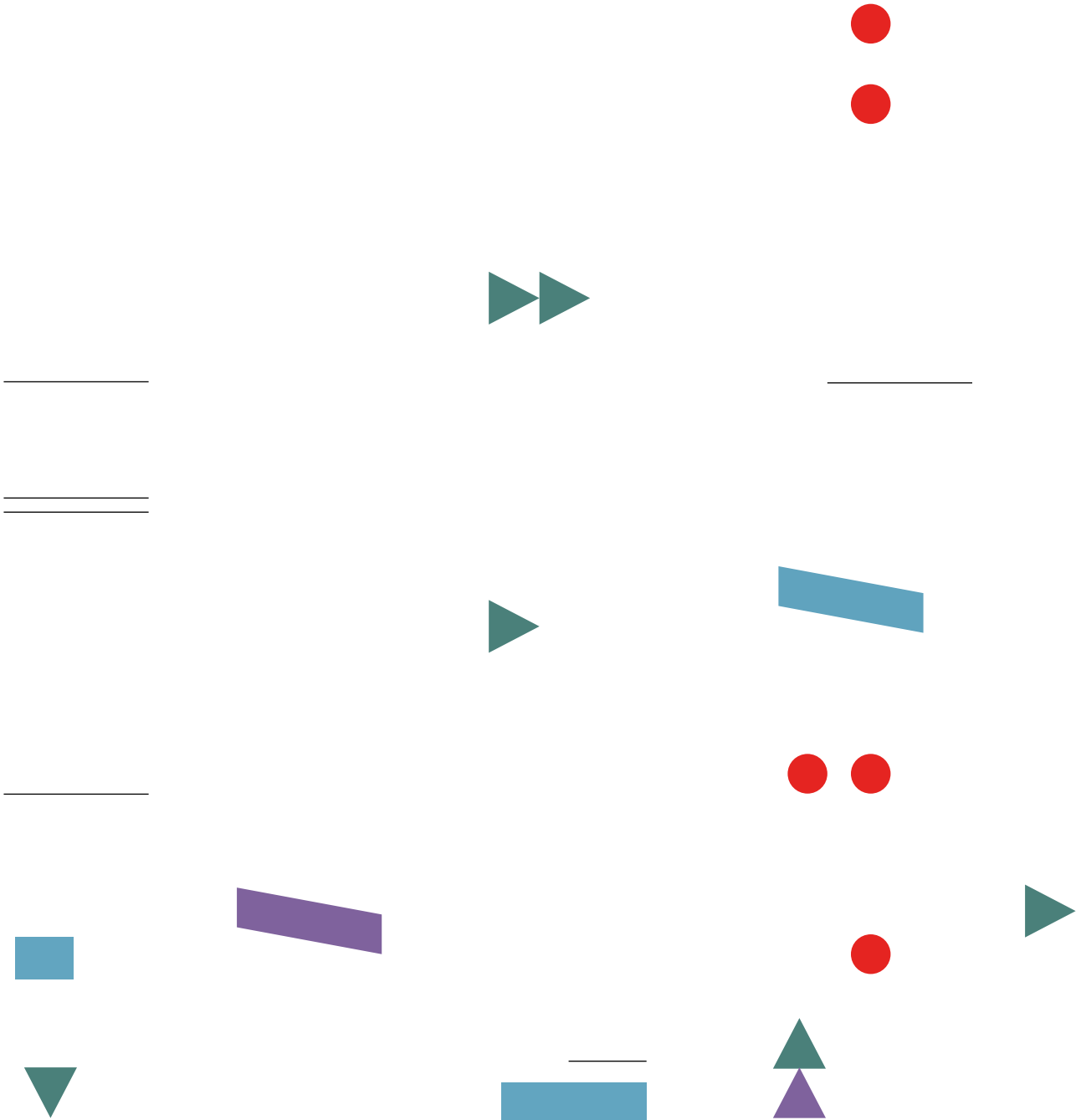


⁴⁹ Action implemented in cooperation with other centres within ECC-net.

2.5
Out-of-court
consumer dispute
resolution system

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with consumer
organisations...

2.7
**European Consumer
Centre at UOKiK**



3.1
Market research

3.2
Drafting of legal
regulations

COMMON SOLUTIONS



3.3
Information and educational
activities

3.4
International cooperation



3.1
MARKET RESEARCH

The President of UOKiK conducts market research aimed at diagnosing the general market situation, selected sectors or a specific problem affecting the situation of consumers or conditions in which business activity is pursued. Such analyses are carried out in the form of separate administrative proceedings⁵⁰ and their results may be used for the authority to intervene. Market research is carried out, among others, by asking questions to undertakings operating in a given industry. The analyses focus in particular on markets that are at greater risk of anti-competitive behaviour due to their existing structure or changes. They can be nationwide or local.

In addition, the Office commissions social surveys to find out the opinions of consumers and undertakings on selected topics. A survey carried out in 2022 concerned online advertising.

MARKET RESEARCH in 2022		
research	nationwide	local
new proceedings	10	28 including: 23 proceedings for monitoring public tenders related to the disbursement of EU funds
closed proceedings	8	27

50 Market research is conducted in the form of preliminary investigations, which are separate from concentration or competition and consumer protection proceedings. Some of the proceedings concerning local markets are linked to nationwide research projects coordinated by the UOKiK headquarters.

Examples of market research in 2022

► **Survey of retail chains**

The completed proceedings concerned, among others, competition between large-format chain stores (hypermarkets, supermarkets, and discount stores). The survey covered 35 entities operating 52 retail chains. The results show that between 2016 and 2020 the number of large-format stores increased by 22 percent. Private label sales also went up – by 1/3 during the survey period, while the number of private label suppliers in discount chains decreased. Large-format chains (mainly supermarkets) expanded in smaller municipalities during the period under review. A noticeable trend is the consolidation of the position of discount stores, which by 2020 will account for more than 50% of stores in the large-format chains market. An important part of the survey was the analysis of the fees charged by retail chains to the suppliers of agri-food products for their sales-related services. Some of these fees raised doubts as to the legitimacy and fairness of their application. On the basis of the information gathered, the President of UOKiK instituted proceedings to examine in detail the practices of retail chains. The Authority also prepared a report on sales-related fees (more information: 1.4 Contractual advantage).

► **Market survey for commodities exchange**

UOKiK received complaints about entities operating popular commodities exchanges. These are online platforms for, among others, the exchange of information between hauliers and commodity forwarders regarding free cargo and transport options. The purpose of the survey was to determine the relevant market and its structure. As a result of the analysis, the Authority defined the relevant market as the market for commodities exchanges available

to Polish users which collect offers of free vehicles and freight to be transported on routes in Poland. The survey showed that Trans.eu had the largest market share, well over 40%. Next in line, although with much smaller shares, were the Transporeon and Teleroute exchanges.

► Market survey for passenger car sales and service

The survey was initiated in connection with notifications submitted to UOKiK concerning the passenger car sales and service market. One of the purposes of the completed proceedings was to define the structure of the market and its degree of concentration. The survey covered 14 importers, as well as more than 70 dealers and approved repairers (ASO) belonging to the network of investigated importers. UOKiK also analysed whether there may be a collusion between importers and dealers as regards the sale of new passenger cars and spare parts, as well as whether the entities willing to operate as approved repairers have the same conditions for joining an authorised service network. In addition, the survey found that the terms of warranties offered by certain entities may raise doubts as to their compatibility with competition law. On the basis of the information gathered, UOKiK sent soft calls to car importers (more information: 1.1 Competition-restricting practices).

► Property development survey

The President of UOKiK launched market research into the development industry, which covered nearly 90 undertakings. The aim of the investigation is to verify whether developers use the so-called inflation adjustment clauses in their model contracts with consumers. Such provisions will be examined for abusiveness, including attempts to pass on the costs of the negative effects of a complex economic situation to consumers.

3.2

DRAFTING OF LEGAL REGULATIONS

The President of UOKiK is committed to drafting legal regulations that effectively protect consumer interests and support competition development. He prepares legal solutions and analyses draft acts and regulations in terms of their potential impact on competition and the situation of consumers. The President is also involved in the development of international legal solutions applicable in the EU.

The Office regularly monitors the judicial decisions of the Court of Justice of the European Union (CJEU). In particular, it analyses preliminary ruling proceedings, i.e. those in which the CJEU interprets EU regulations at request of a national court. UOKiK analyses them in terms of whether it is justifiable to join them, if the relevant judgment could affect Polish case law.

OPINIONS ON DRAFT LEGISLATION in 2022

369

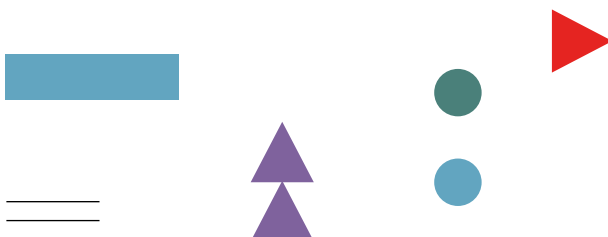
acts reviewed

595

regulations reviewed

1,229

other government documents reviewed





PRELIMINARY RULINGS in 2022

58

new preliminary rulings

Legal changes – examples of actions taken by the President of UOKiK

► Changes in consumer rights

UOKiK has completed its work on the implementation of the EU Directive 2019/2161 – the so-called Omnibus Directive. The measures put in place⁵¹ mainly concern greater transparency in online shopping, including the verification of online reviews and clear rules for the placement of offers. Undertakings were obliged, among others, to clearly indicate paid advertising or payment made to obtain higher product placement in search results. For promotions and sales, an obligation has been introduced to show the lowest price (the “prior price”) that was in force within 30 days prior to the application of the price reduction.

⁵¹ The Act of 1 December 2022 amending the Consumer Rights Act and Certain Other Acts (Journal of Laws of 2022, item 2581).

In addition, the legislation clarifies unfair market practices concerning dual quality of products and provide for a period of 30 days the period for withdrawal from a contract concluded during a tour or an unsolicited visit to the consumer’s home. In addition to the changes resulting from the implementation of the directive, the Office developed additional solutions to eliminate unfair practices. It is now prohibited to enter into financial contracts during a show or a tour, including to accept payments before the expiry of the rescission period. The amendments entered into force on 1 January 2023.

UOKiK was also involved in legislative work relating to the implementation of EU directives: 2019/771 (the Goods Directive) and 2019/770 (the Digital Content Directive). The adopted regulations⁵² change the rules about making complaints, with the former concept of warranty being replaced by liability for non-conformity of goods with the contract. In addition, the issues of complaints about goods with digital elements, content and digital services have been regulated. Undertakings have been obliged to keep them up to date for at least 2 years after the sale. This also applies when consumers pay for goods with their personal data. The regulations enter into force on 1 January 2023.

⁵² The Act of 4 November 2022 amending the Consumer Rights Act – the Civil Code, and – International Private Law (Journal of Laws 2022, item 2337).

⁵³ Draft Act amending the Act on Payment Services and Certain Other Acts (number according to the list of legislative and programme works of the Council of Ministers: UC139).

EU LEGISLATION – examples of UOKiK's involvement

amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition

- enabling consumers to take informed purchasing decisions to ensure sustainable consumption
- eliminating unfair commercial practices that mislead consumers about sustainable choices

development of a new consumer credit directive

- strengthening consumer protection, among others, in connection with the digital transformation and improving the harmonisation of regulations at European level

amendment of Directive 2011/83/EU concerning financial services contracts concluded at a distance

- modernisation of existing solutions for distance marketing of financial services

draft for a Commission regulation on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid

- adjusting the *de minimis* ceiling to the monetary value changes (inflation) and ensuring the transparency of this aid through the obligation to keep a central *de minimis* aid register

► Changes in pursuing claims

UOKiK has drafted a bill⁵³ aimed at implementing EU Directive 2020/1828 on representative actions. The regulation will enable authorised consumer organisations to bring actions in relation to practices infringing consumer interests. The changes provide for new competences of the President of UOKiK, including the examination of applications concerning the designation of an authorised entity in this regard. Authorised entities will be able to request the cessation of practices infringing the interests of a consumer group and the application of remedies, such as compensation or price reduction. In December 2022, the draft was referred for public consultation.

► New consumer protection tools

UOKiK continued its work on the transposition of Regulation 2017/2394 – the so-called CPC Regulation. The proposed regulation⁵⁴ aims at increasing the effectiveness of the Office, among others, in eliminating infringements

of consumer interests in the digital world. The adopted solutions make it possible for the President of the Office to intervene with regard to websites and applications. The amendment also provides for the possibility of purchasing goods or services during an inspection (including concealing the buyer's identity). In December 2022, the draft was submitted to the European Affairs Committee for deliberation.

► Amendment of the legislation on payment gridlocks

The amended provisions of the Act⁵⁵ clarify and simplify the existing regulations on counteracting excessive delays in commercial transactions. This will enable UOKiK to speed up its proceedings and, consequently, to eliminate payment gridlocks more effectively and faster. The President of the Office has been vested with the right to make “soft calls” to undertakings, without the need to institute administrative proceedings. In such cases, the undertaking will be able to provide explanations regarding the diagnosed risk of payment gridlocks as well as to change payment practices

⁵⁴ Draft Act amending the Competition and Consumer Protection Act and Certain Other Acts (number according to the list of legislative and programme works of the Council of Ministers: UC15).

⁵⁵ The Act of 4 November 2022 amending the Act on Counteracting Excessive Delays in Commercial Transactions and the Public Finance Act (Journal of Laws of 2022, item 2414).

3.1 Market research

in relation to its counterparties. The amendment introduced a more flexible approach to the imposition of by considering both mitigating and aggravating circumstances. In addition, examination of the timeliness of repayments of commercial transactions entered into within a single capital group is excluded. The Act entered into force on 8 December 2022.

► Changes to the fuel monitoring and control system (hydrogen controls)

The Act on the Special Protection of Certain Consumers of Gas Fuels⁵⁶ introduces changes to hydrogen control within the fuel quality monitoring and control system resulting from the market situation for hydrogen used in transport. Hydrogen manufacturers intended for use in vehicles have been required to carry out quality tests. The fulfilment of this obligation will be checked by the Trade Inspection, which will verify whether hydrogen meets the quality requirements and whether the test has been carried out in accordance with the applicable requirements. The provisions of the Act enter into force on 1 January 2023.

► Waste management – new competencies of the Trade Inspection

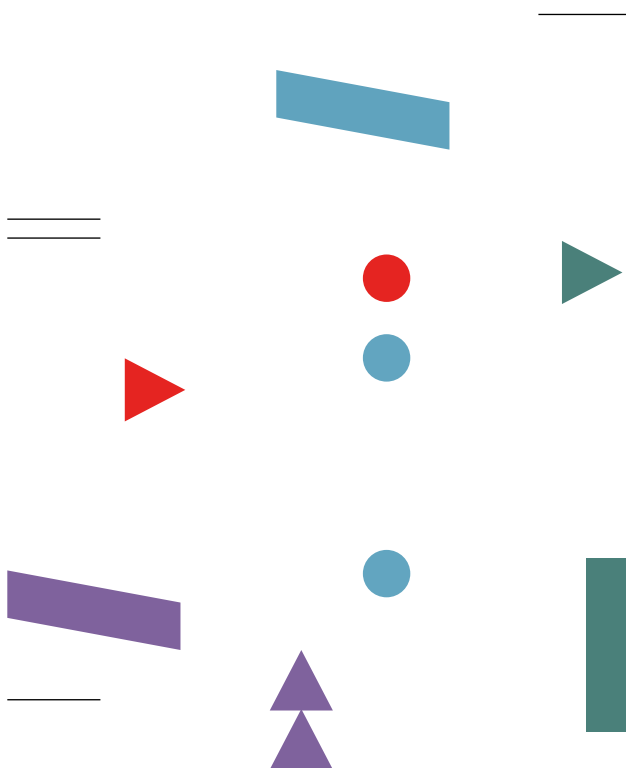
The draft Act concerning the obligations of undertakings with regard to the management of certain waste⁵⁷ brings Polish law into compliance with the regulations in force in the EU as regards waste reduction. The regulation vests new control powers in the Trade Inspection. The scope of activities was extended to include issues relating to the obligations of undertakings in connection with the use

3.2 Drafting of legal regulations

and sale of disposable products (including via vending devices). The Council of Ministers adopted the draft act in December 2022.

► Amendments to the state aid reports

UOKiK has completed legislative work on the regulation on state aid reports⁵⁸. The change is linked to the need to ensure proper monitoring of state aid, including aid granted to offset the negative economic effects caused by COVID-19. The regulation brings the regulations into compliance with the applicable national and Union law, as well as to the state aid reporting system. The list of laws constituting the legal basis for granting aid was updated. The Regulation entered into force on 1 January 2023.



⁵⁶ The Act of 15 December 2022 on the Special Protection of Certain Consumers of Gas Fuels in 2023 in connection with the situation on the Gas Market (Journal of Laws of 2022, item 2687, as amended).

⁵⁷ Draft Act amending the Act on the Obligations of Undertakings with regard to the Management of Certain Waste and on Product Fee and Certain Other Acts (number according to the list of legislative and programme works of the Council of Ministers: UC73).

⁵⁸ Regulation of the Council of Ministers of 27 December 2022 amending the regulation on state aid reports, information on failure to grant such aid and reports on undertakings' arrears in payment of benefits due to the public finance sector (Journal of Laws of 2022, item 2864).

3.3

INFORMATION AND EDUCATIONAL ACTIVITIES

UOKiK carries out information and educational activities for various groups of recipients through: cooperation with the media and institutions, communications on the website and in social media, organisation of webinars and contests, operating thematic web portals, publishing activities and financing of educational projects carried out by consumer organisations.

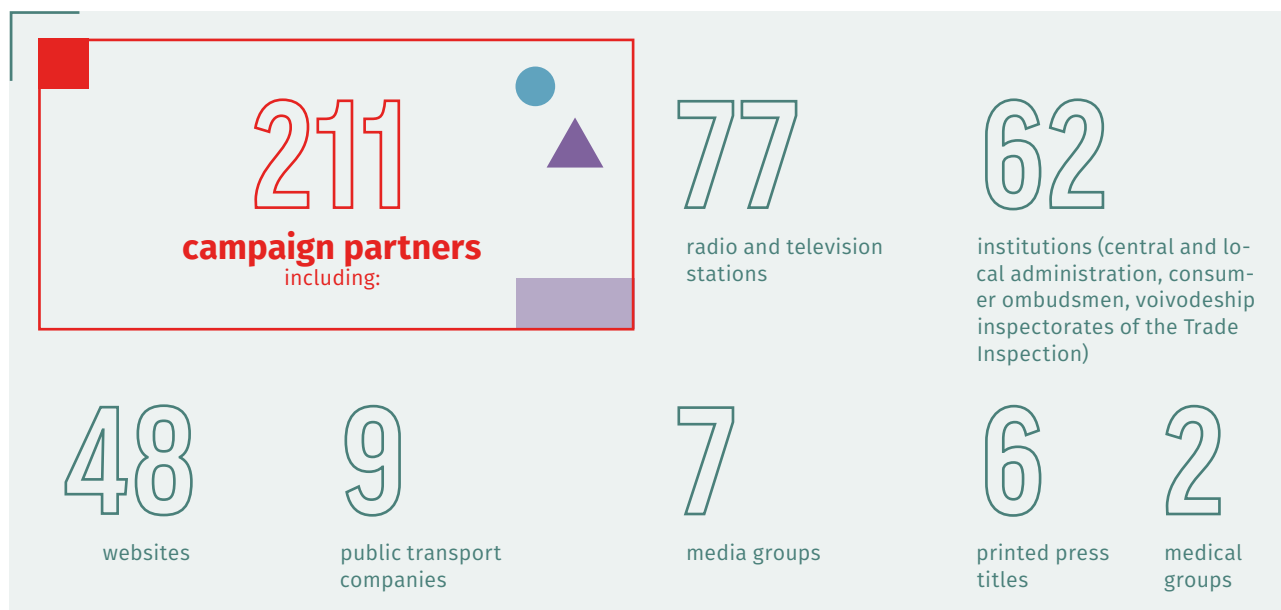
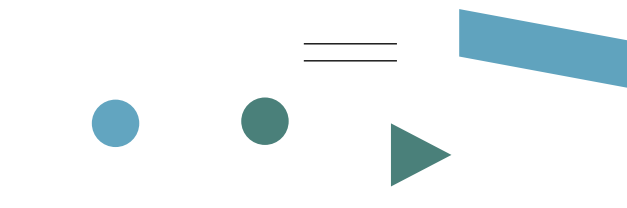
Finance and cybersecurity

► “Losing data means losing money!” campaign

UOKiK conducted a public awareness campaign “Losing data means losing money!” through which it warned consumers of the risk of losing data and money and called for increased vigilance. Apart from public media, campaign

spots were also to be seen or heard across the country: on television, radio, web portals, in social media, and on outdoor advertising banners. In addition, counselling webinars were held, to which UOKiK invited experts of the Central Cybercrime Bureau of the National Police Headquarters and CERT Polska (NASK).

Several hundred partners joined in the UOKiK campaign free of charge.



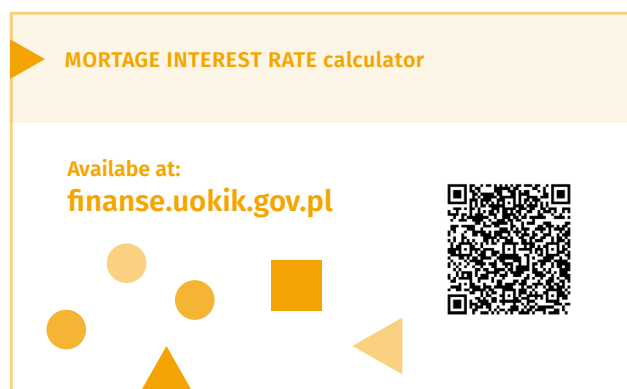
3.1 Market research

► Calculator and finance portal

The mortgage interest rate calculator prepared by UOKiK allows to easily check how the loan instalments will change when its interest rate increases, and in the case of over-payment whether it will be more beneficial to reduce the instalment or shorten the loan term.

Borrowers who find it more and more burdensome to pay their loan instalments may benefit from support guaranteed by Polish legislation. UOKiK has expanded the calculator to include a form which enables preliminary verification of whether people in financial difficulties may benefit from the Borrower Support Fund.

The calculator is available at finanse.uokik.gov.pl – a portal with practical information on alternative investments, consumer credits, and mortgage loans. In 2022, UOKiK – in cooperation with the Financial Ombudsman – has expanded the unauthorised transactions section to include FAQ on consumer rights and obligations of payment service providers (e.g. banks).



► National Strategy for Financial Education

UOKiK actively participated in the work on the National Strategy for Financial Education, which is being developed in cooperation with 9 institutions that make up the

3.2 Drafting of legal regulations

Financial Education Board⁵⁹, and OECD experts. The need to develop and implement the strategy is a response to the needs and expectations for higher financial competence in the Polish society. An adequate level of knowledge, attitudes and behaviour is necessary to build skills to deal with financial crises, long-term saving, avoiding over-indebtedness, and cybersecurity.

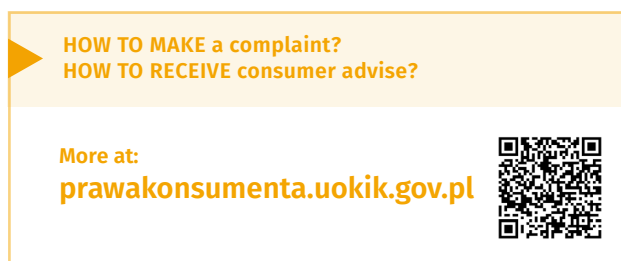
Consumer rights

► World Consumer Rights Day for Ukrainians

On 15 March 2022, UOKiK celebrated the World Consumer Rights Day under a special slogan: “We Are All Consumers”. In view of the war in Ukraine, it has become crucial to bring refugees closer to their most important rights. The Office has launched a web portal at uakonsument.uokik.gov.pl with useful information and guides in Ukrainian developed by UOKiK and 6 other institutions⁶⁰. The available materials make it easier to use services, travel, and shop. In addition, UOKiK has launched a special helpline and e-advice.

► Consumer Rights Portal

[Prawakonsumenta.uokik.gov.pl](https://prawakonsumenta.uokik.gov.pl) is a practical guide to the most important consumer's rights: the right to information, complaint or withdrawal from a distance or off-premises contract. Apart from educational materials, the portal contains specimens of letters, infographics, answers to FAQ and contact details of institutions providing free consumer advice.



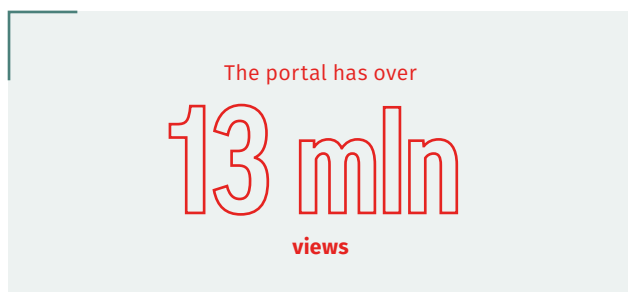
59 The Financial Education Board consists of representatives of: the Ministry of Finance, the Office of Competition and Consumer Protection, the Financial Ombudsman, the National Bank of Poland, the Polish Financial Supervision Authority, the Ministry of Education and Science, the Bank Guarantee Fund, the Central Securities Depository of Poland, the Polish Development Fund S.A., the Warsaw Stock Exchange.

60 The European Consumer Centre, the Polish Financial Supervision Authority, the Financial Ombudsman, the Office of Electronic Communications, the Personal Data Protection Office, and the Office of Rail Transport.

3.3

Information and educational activities

UOKiK conducted studies on the usefulness of the portal to adapt it even better to consumer needs. The Office also started work on changing the layout and updating the content in view of the upcoming changes in consumer law.



► #OnHoliday and #PricesWithoutSecrets

Together with the European Consumer Centre, UOKiK carried out a series of educational campaigns: #NaUrlopie ["On Holiday"] and #CenyBezTajemnic ["Prices Without Secrets"]. They encouraged consumers to exercise their basic consumer rights and to make informed purchasing decisions, especially in matters relating to free time and promotions: online shopping, sales (e.g. Black Friday), cultural events, travel, and leisure. 5 webinars were held as part of the campaign.

HOW TO AMICABLY resolve a consumer dispute?

More at:
polubowne.uokik.gov.pl



Consumer safety

► Fridays with the Trade Inspection

Every Friday, the Trade Inspection's reports on the safety and quality of products of various categories, including toys, cosmetics, electronic devices, and household appliances are published at uokik.gov.pl. UOKiK explained how much wool is included in a coat and how cosmetics should be labelled. The Office also revealed "behind-the-scenes" work of its laboratories. The materials also included consumer advice. In the UOKiK's social media, the campaign was conducted under the slogan #Bezpieczeństwo ["Safety"].

3.4

International cooperation

► Portal on playgrounds

UOKiK has refreshed and updated plac zabaw.uokik.gov.pl – a website with practical information for parents, carers and owners and managers of playgrounds for children. Downloadable materials include leaflets and "Safe Playground" guide.

Influencer marketing

UOKiK issued Recommendations on the tagging of advertising content by influencers on social media. Their publication was preceded by consultations with consumers, the industry, and the academia⁶¹.

The recommendations are intended to assist online creators interpret the applicable laws. The document includes not only the key definitions, applicable legal regulations and consequences that may suffered in connection with surreptitious advertising, but also provides specific examples of advertising tags that should be used on social media (Instagram, Facebook, TikTok, YouTube and others). It also offers practical guidelines that need to be followed in connection with all forms of ads.



⁶¹ The Association of Internet Industry Employers IAB Polska, the Association of Marketing Communication SAR, the Advertising Council, creators of social media content; Department of Journalism, the Faculty of Journalism, Information and Book Studies of the University of Warsaw, and the Department of Press Systems and Press Law of the Faculty of Journalism and Political Science of the Adam Mickiewicz University.

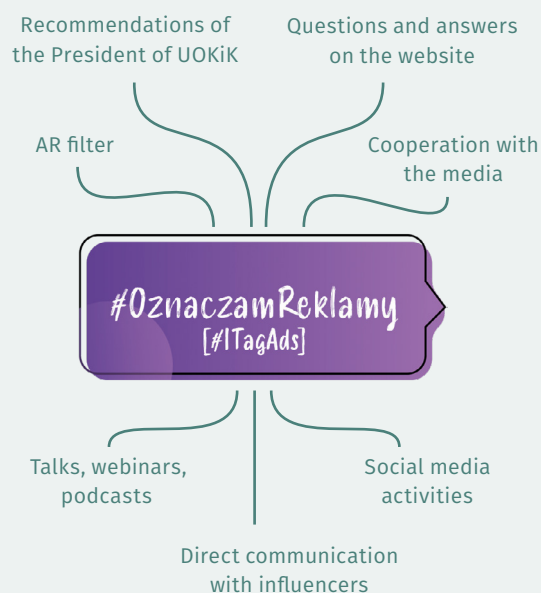
3.1 Market research

►“#Oznaczamreklamy” campaign [“I Tag Ads”]

The purpose of the “#Oznaczamreklamy” campaign was to spread the recommendations as broadly as possible, mainly in social media. UOKiK published **Instatips for consumers** – practical tips on how not to fall into marketing traps and how to make informed purchasing decisions. In addition, it held a **webinar**, which was attended by nearly 10,000 people.

The Authority has also created an **augmented reality filter** on Instagram and Facebook, which helps to properly highlight advertising material.

#OZNACZAMREKLAMY CAMPAIGN



AWARD FOR UOKIK

The UOKiK
#OznaczamReklamy campaign
won in the
NOIZZ ZMIANY '22
poll of internet users in the online category

3.2 Drafting of legal regulations

AR FILTER – Instagram and Facebook



3.3

Information and educational activities

UOKiK in social media

Almost 2 million times Twitter users viewed posts published by UOKiK. It was a record year in terms of new account followers. The Authority gained almost 4,000 of them over the course of 12 months.

In 2022, UOKiK launched another tool to communicate

@UOKIKGOVPL on Instagram

#UOKiK

#OfficeofCompetitionandConsumerProtection

#Education

#InformedConsumer

#News

#WorthKnowing

#ConsumerRights

#Safety

#InfluencerMarketing

#ITagAds

#FAQ

with consumers and undertakings – @uokikgovpl on Instagram. The Authority publishes educational content on influencer marketing, consumer rights and safety, finance, and current activities. In the first year of the channel's operation, there were more than 20,000 followers.

UOKiK on Twitter

nearly 2 million views and posts

8.8 thousand likes

nearly 4 thousand followers

3.4

International cooperation

Education of children and young people

► ABC of the Young Consumer

UOKiK launched "ABC of the Young Consumer" – a project for kindergartens and their teachers, educators, and parents. In a friendly, accessible, and modern way, the Authority introduces the youngest consumers to the basic concepts and rules for prudent shopping. The interactive portal malykonsument.uokik.gov.pl offers free educational materials for children aged 4-5: lesson plans and online games – "Shopping memo" and "Going shopping".

In addition, UOKiK funds kindergarten classes and trainings for teachers carried out by the Foundation for the Development of Digital Education until 2023.

ABC OF THE YOUNG CONSUMER

4,222

children

186

trained teachers

134

kindergartens

► Youth with rights @ modern times

UOKiK launched an educational project for secondary schools: "Youth with rights @ modern times". The project will last until 2023, covering over 120 schools nationwide. It will allow students to learn about safe online shopping and finances using the UOKiK simulator konsument.edu.pl.

The project participants in 2022 included people with disabilities, and the form of the classes were adapted to their needs. The project is funded by UOKiK and is implemented by LexCultura Foundation.

YOUTH WITH RIGHTS @ MODERN TIMES

12,379
students

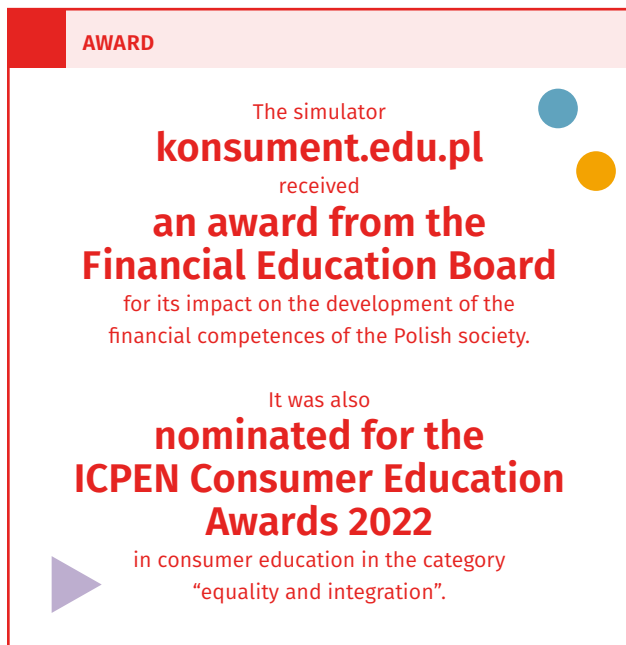
520

classes

83

schools

3.1 Market research



UOKiK for senior citizens

One of the target groups of the UOKiK campaign “Losing data means losing money!!” was senior citizens. They often fall prey to scammers pretending to work for banks or other institutions, or they receive fake calls or text messages about alleged risks or underpayments for electricity, gas, or TV.

The most popular media and viewing hours among seniors were taken into account when planning the airing of the spots.

UOKiK also held a webinar “Trade show fraud: off-site trade show shopping”. In addition, it participated – as every year – in the Senior Citizen’s Day celebrations organised by the Social Insurance Institution and the Polish Association of Pensioners and Disabled Persons. In 2022,

3.2 Drafting of legal regulations

the initiative was held under the slogan “Safe, healthy, cashless”. Older people could benefit from advice from UOKiK experts.

Competition for the best master and doctoral theses

The Authority organised the 13th edition of the competition for the best master’s theses in the field of competition protection and the 11th edition in the field of consumer protection. There was also the third edition of the competition for the best doctoral theses, which takes place every 3 years. 35 master’s theses and 14 doctoral theses were submitted. The juries awarded 9 works and recognised 3 distinctions. The best works have been published as part of the “UOKiK Library” publishing series.

MEDIA COVERAGE of UOKiK

83 000 thousand mentions of UOKiK
on Twitter, Facebook

19 500 online publications

10 000 radio and TV materials

7 500 press articles

UOKiK for the media

190 press releases issued

1 press conference
(co-organised by UOKiK)

3.4 INTERNATIONAL COOPERATION

A vital aspect of activities of the President of UOKiK are initiatives taken on the international forum. The Office cooperates with competition and consumer protection authorities from other countries as well as international

organisations, in particular within EU structures. UOKiK representatives are engaged in the activities of working groups as well as in the development of EU legal standards.

UOKiK'S PARTICIPATION IN INTERNATIONAL NETWORKS AND ORGANISATIONS – examples

● **CPN**

Consumer Policy Network

● **CPC**

Consumer Protection
Cooperation

● **ICPEN**

International Consumer
Protection and Enforcement
Network

● **UNCTAD**

United Nations Conference
on Trade and Development
Network

● **OECD**

Organization for Economic
Co-operation and
Development

● **ECN**

European Competition
Network

● **ICN**

International Competition
Network

● **CSN**

Consumer Safety Network

● **EUPCN**

European Union Product
Compliance Network

● **ADCO**

Administrative Cooperation
Groups

● **SAM WG**

State Aid Modernisation
Working Group



consumers



competition



product safety



state aid

Examples of international cooperation

► Twinning projects – Serbia and Morocco

Twinning projects are a European Union instrument for institutional cooperation between Administrations of Member States and of beneficiary or partner countries. Within the framework of twinning cooperation, UOKiK carried out:

- a project aimed at reinforcing the consumer protection system in Serbia, carried out within the framework of the Slovakia-Germany-Poland consortium. Its purpose is to prepare the Serbian Ministry of Trade, Tourism and Telecommunications for legal and institutional changes resulting from Serbia's EU membership in the future.
- a project aimed at reinforcing the institutional capacity of the Competition Authority in Morocco, carried out in cooperation with Greece and Italy. The measures are aimed at supporting the antitrust authority, as well as enhancing the economic competitiveness and development of the private sector. An important aspect of the measures is to promote the approximation of Morocco's legislation to EU regulation and the implementation of best international practices.

► Polish Aid – Armenia and Moldova

Polish Aid is a type of development cooperation implemented by the Ministry of Foreign Affairs of the Republic of Poland. UOKiK used the funds under this programme to carry out 2 projects:

- cooperation with the Competition Protection Commission of Armenia – the project is aimed at institutional strengthening in connection with the new competencies of this institution – consumer protection. The project was carried out, among others, through workshops and study visits to Armenia and Poland,
- cooperation with the Inspectorate for Non-Food Products Surveillance and Consumer Protection of Moldova – the project consisted of 2 topic areas: the market surveillance and fuel quality control system in Poland and best practices in the field of consumer protection; in addition, Moldovan experts participated in public communication workshops.

► Expert support of UOKiK for Ukraine, Georgia, and Moldova

In 2022, UOKiK was actively engaged in helping Ukraine, including by offering direct expert support. It held online workshops on state aid, searches, inspections, and

counteracting contractual advantage. By joining the initiative of the Eastern Partnership Academy of Public Administration, the Authority held stationary workshops for experts from Ukraine, Georgia, and Moldova in consultation with the Ministry of Foreign Affairs and the National School of Public Administration. The training was devoted to competition protection and concentration control 75 issues and was attended by experts from European and global antitrust authorities, international organisations (UNCTAD and OECD), and the European Commission.

► UOKiK's active involvement in the work of ICPEN

In 2022, UOKiK was actively involved in projects of the International Consumer Protection and Enforcement Network (ICPEN) and has been elected to take over the annual ICPEN Presidency starting from 1 July 2023. The Authority's experts are the leader of the project "Protecting Consumers Online – Future Finance, Services and Scams" together with the Australian Competition and Consumer Commission (ACCC). The project is scheduled 2 years and will consist of 2 stages – market screening for risks and unfair financial practices on the Internet, as well as law enforcement and consumer empowerment: best practices in information and education campaigns.

► Participation in the meeting of the OECD Committee on Consumer Policy (CCP)

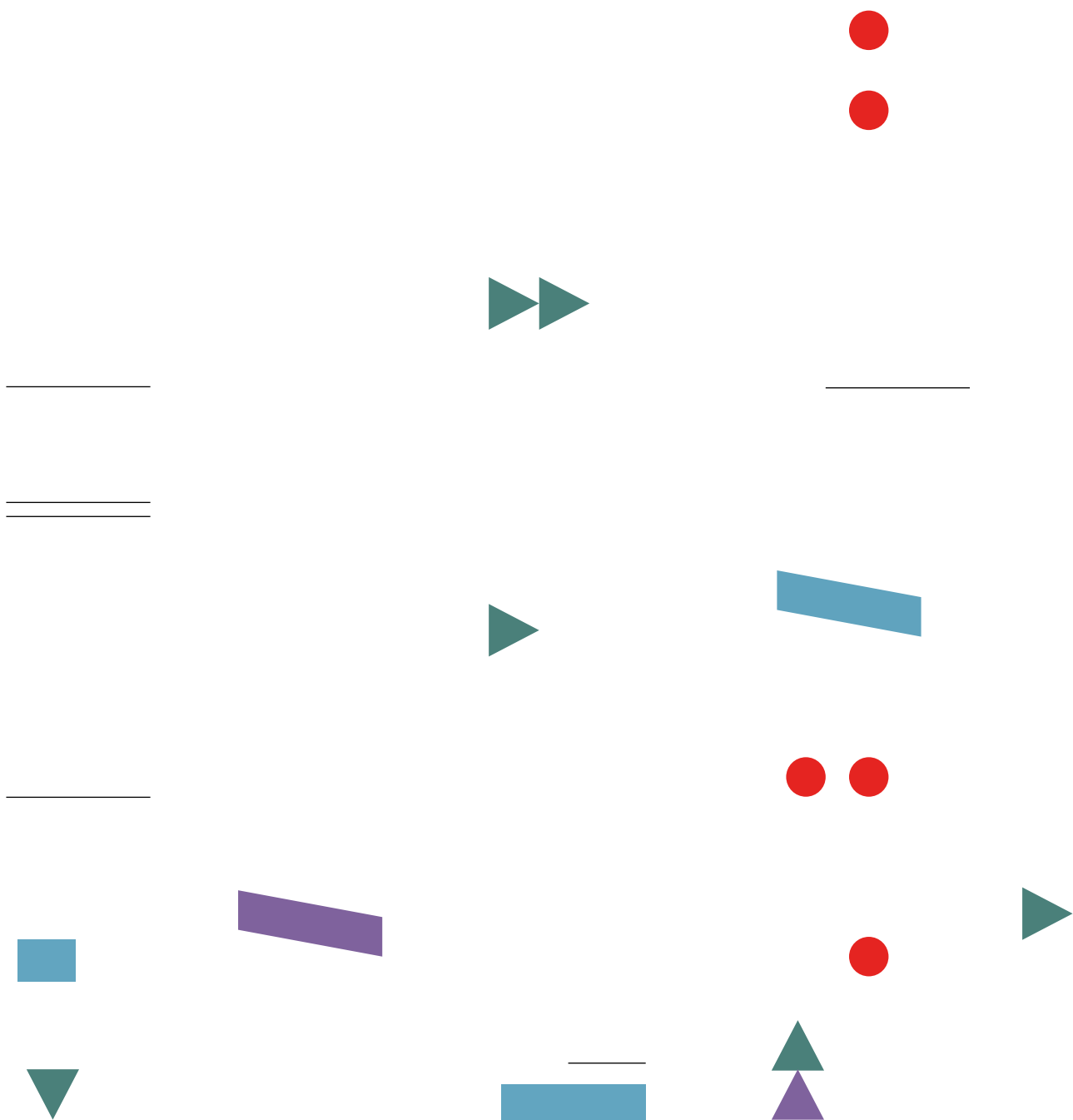
In November 2022, UOKiK took part in a CCP meeting where it had an opportunity to present issues concerning the use of artificial intelligence by consumer protection authorities to detect and deter online scams and ARBUZ tool developed by the Office to detect abusive clauses in model contracts. In addition, UOKiK was involved in the work of the OECD Advisory Group for Dark Patterns, which drew up a report containing, among others, a working definition of a "dark pattern".

BILATERAL VISITS – in 2022, UOKiK was visited by

- The Office for the Protection of Competition, Czech Republic (ÚOHS),
- The Spanish National Commission on Markets and Competition (CNMC),
- Steffi Lemke, German Minister for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection (BMUV),
- The French Competition Authority – Autorité de la concurrence.

3.3
Działalność
informacyjno-edukacyjna

3.4
Współpraca
międzynarodowa



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