



# Report on UOKiK activities in 2021



Office of Competition and Consumer Protection

Warsaw 2022

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**Tomasz Chrósty**

**President of the Office of  
Competition and Consumer  
Protection**

**D**igital transformation and the growth of e-commerce bring significant potential to the development of the economy and new challenges to measures taken to ensure fair competition and consumer protection. The ongoing changes are reflected both in new legal solutions and in decisions of competent authorities, in particular the President of the Office of Competition and Consumer Protection. The interventions made in the market are increasingly related to issues linked to the functioning of businesses and consumers in digital markets, as well as to breaches of the law involving new technologies.

Examples of such interventions include antimonopoly proceedings on restricting distributors from selling products online; setting minimum prices for goods sold online; and measures taken against the abuse of the dominant position on the market of personalised online advertising services. At the same time, in the area of competition protection, the priority of the President of the Office of Competition and Consumer Protection remains the detection of prohibited agreements between businesses, including unfair practices in public procurement, and the abuse of the dominant position. It is worth noting that half of the proceedings initiated in 2021 in response to practices restricting competition concerned collusive tendering.

We are also intensifying our efforts to protect online shoppers, including by eliminating mechanisms that may distort consumer choices. In 2021, we intervened on customer review platforms and started to verify the activities of influencers. Digital markets encourage the proliferation of various types of alternative investments and risks associated with them, such as the illegal pyramid-type incentive schemes, therefore we have been taking action in this area too.

Sanctions imposed against persons who promote such schemes and on company managers who commit violations are particularly important for eliminating such threats. It is worth noting that in 2021 the President of UOKiK imposed fines on managers responsible for the violation of collective consumer interests for the first time. One year earlier, a similar solution was applied for the first time to persons who violated competition law. In 2021, financial sanctions against managers totalled over PLN 2 million.

Identifying unfair practices in digital markets featured in international cooperation too. It accompanied the Consumer Dialogue organised by the European Commission and UOKiK in 2021, as well as the involvement of the Office's experts in the UN Summit in Katowice, during which we presented i.a. the potential application of artificial intelligence (AI) to strengthen the effectiveness of UOKiK's activities. In 2021, together with GovTech Poland, we conducted and successfully resolved a competition aimed at designing a tool based on machine learning to analyse the contents of contracts for the presence of prohibited clauses. This will improve the effectiveness and the efficiency of UOKiK in detecting irregularities in model contracts. Another project utilising AI will help identify consumer opinions on product safety and quality, taking the issue of dual quality into account. In 2021, the project was selected for implementation as part of the strategic research and development programme of the National Centre for Research and Development. In the future, the experience gained in this area will support the identification of collusive tendering, which constitutes a specific form of competition-restricting agreements prohibited by the law.

Legislative changes are also a response to challenges related to the development of e-commerce. In 2021, UOKiK was involved in the implementation of the so-called Omnibus Directive, which aims to ensure more transparency for consumers shopping online. Effective protection of consumers and competition on the EU market requires strengthening the powers of national authorities too. In this regard, we continued to work on legal solutions intended to finalise the implementation of the CPC Regulation (strengthening the powers of the President of UOKiK in the digital world) and the implementation of the ECN+ Directive (strengthening the enforcement of competition law) into the Polish law. Also in 2021, we introduced significant legal solutions, including new regulations on contractual advantage and the protection of consumers purchasing real estate on the primary market (so-called developer's law).

The initiatives described above are only a fragment of our activities. As every year, we undertook numerous activities in the area of concentration control, as part of the Trade Inspection and state aid monitoring, thus providing support to consumers, businesses, and the Polish economy. You can find information about it in the report and in the news section on our website. Enjoy your reading!

*Tomasz Chrósty*

# UOKIK – KEY INFORMATION

Who are we?

**The President of the Office of Competition and Consumer Protection** is a central government administration authority responsible for making and implementing the competition and consumer protection policy in Poland<sup>1</sup>.

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

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

What do we do?

The tasks of the President of UOKiK are focused on ensuring proper conditions for the functioning of competition, as well as protecting the interests and safety of consumers.

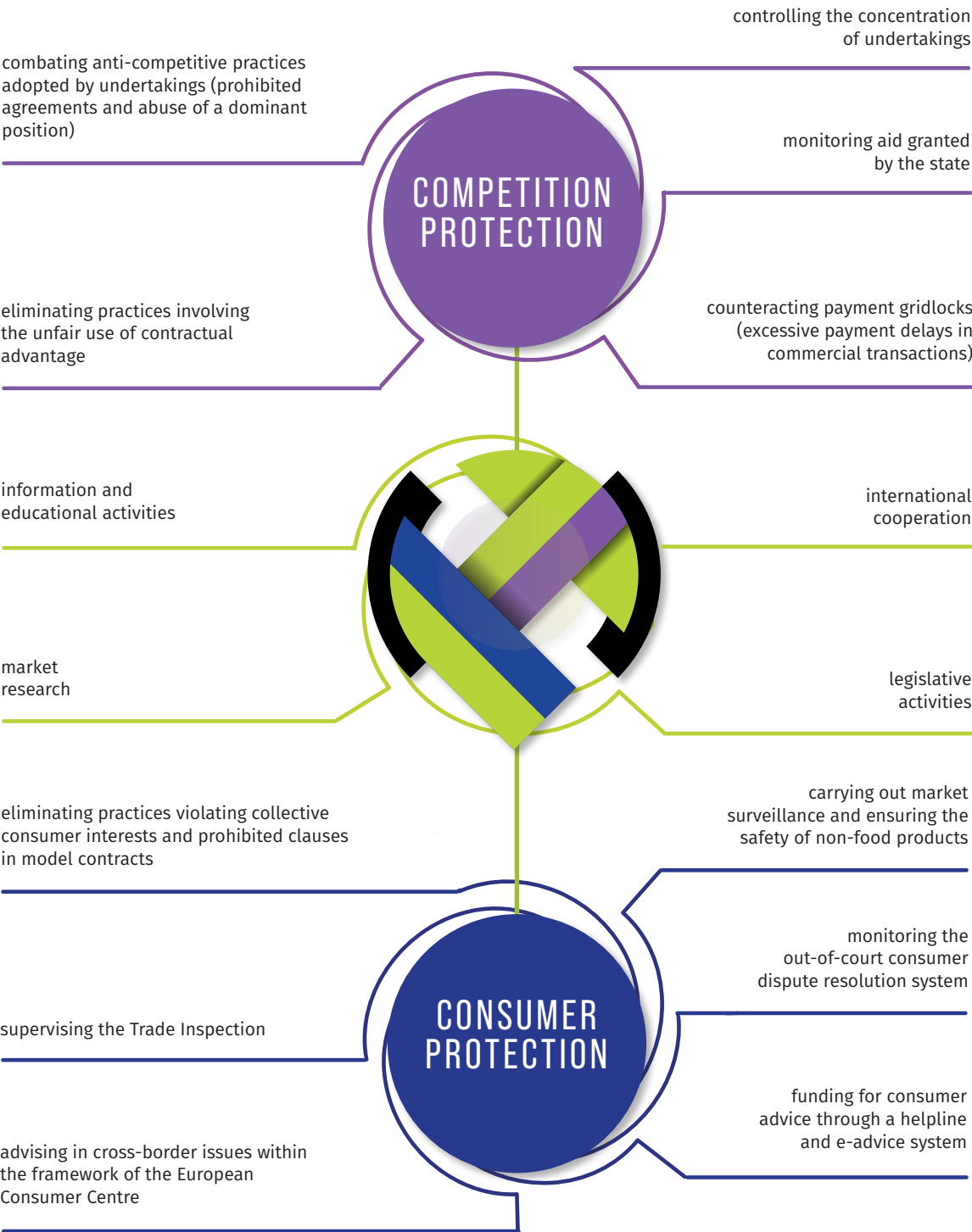
Management

**President of the Office**  
Tomasz Chróstny (in office since 27 January 2020)

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

<sup>1</sup> The constitutional issues were regulated by the Act of 16 February 2007 on Competition and Consumer Protection (Journal of Laws / of 2021, item 275), hereinafter referred to as the "Act".

AREAS OF ACTIVITY OF THE PRESIDENT OF UOKIK



UOKiK IN FIGURES – 2021

108  
PLN MILLION  
BUDGET<sup>2</sup>

988  
DECISIONS, INCLUDING:

343  
IN THE AREA OF COMPETITION  
PROTECTION

645  
IN THE AREA OF CONSUMER  
PROTECTION

486.1  
PLN MILLION  
FINES IMPOSED BY THE PRESIDENT OF UOKiK,  
INCLUDING:

PLN 127.3 million for competition-  
-restricting practices  
nearly PLN 150 million for practices  
violating collective consumer interests  
nearly PLN 2 million imposed on  
managers for adopting competition-  
restricting practices  
PLN 550 thousand imposed on  
managers for adopting practices  
violating collective consumer interests  
PLN 3.3 million in relation to the  
recognition of model contract clauses  
as prohibited  
PLN 200 million for unfair use of  
contractual advantage

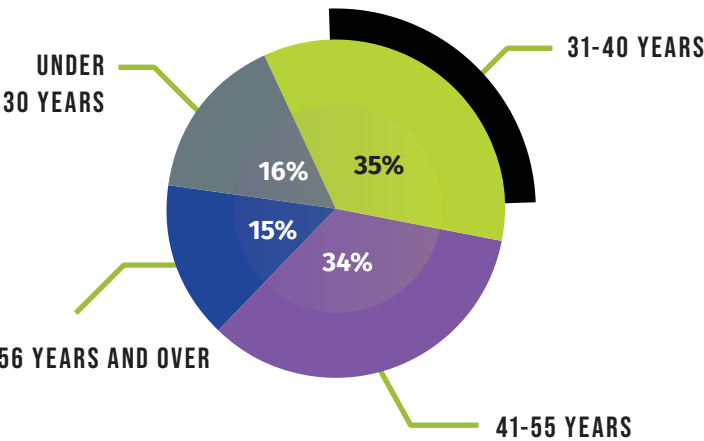
PLN 1.4 million for generating  
payment gridlocks  
PLN 164.5 thousand for  
violations in relation to the Act  
on Conformity Assessment and  
Market Surveillance Systems  
PLN 178 thousand in relation to  
the general product safety  
PLN 660.2 thousand for failure to  
provide information/provision of  
false/misleading information  
PLN 650 thousand for failure  
to cooperate in the course of  
inspection/search

155.2  
PLN MILLION  
FINES PAID BY UNDERTAKINGS<sup>3</sup>

ORGANISATIONAL STRUCTURE

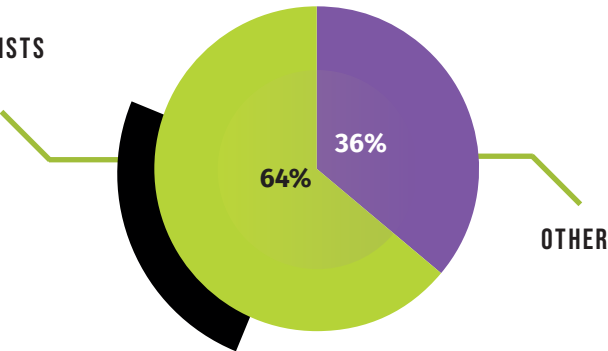
568  
STAFF<sup>4</sup>

AGE



EDUCATION

LAWYERS AND ECONOMISTS

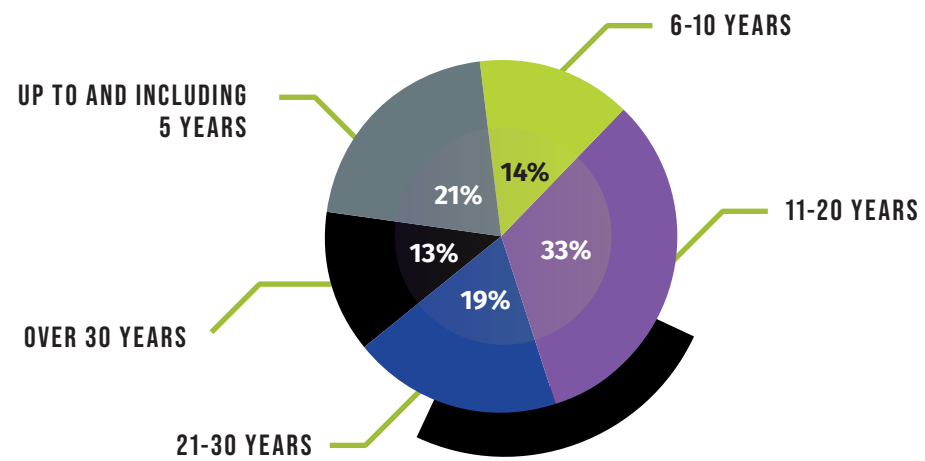


<sup>2</sup> Budget implemented in 2021.

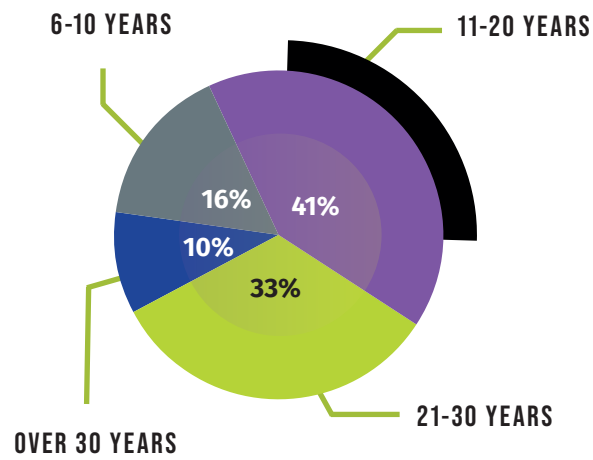
<sup>3</sup> Fines resulting from legally binding decisions of the President of UOKiK, also issued before 2021.

<sup>4</sup> As of 31 December 2021.

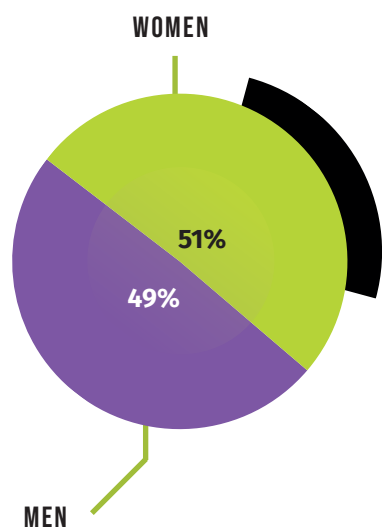
TOTAL LENGTH OF SERVICE



SENIOR POSITIONS - LENGTH OF SERVICE



SENIOR POSITIONS - GENDER



ORGANISATIONAL STRUCTURE<sup>6</sup>

OFFICES

- Executive Office
- International Cooperation Office
- Office of Human Resources, Training, and Organisation
- Finance Office
- Administration Office
- Office of IT and Security

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

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

<sup>5</sup> As of 31 December 2021.

1.1  
COMPETITION-RESTRICTING  
PRACTICES

1.2  
CONCENTRATION CONTROL

1.3  
STATE AID

1.4  
CONTRACTUAL ADVANTAGE

1.5  
PAYMENT GRIDLOCKS

01

COMPETITION-RESTRICTING  
PRACTICES

CONCENTRATION CONTROL

STATE AID

CONTRACTUAL ADVANTAGE

PAYMENT GRIDLOCKS

# COMPETITION PROTECTION



# 1.1 COMPETITION- -RESTRICTING PRACTICES

The basic tasks of the President of the Office of Competition and Consumer Protection include counteracting practices that limit fair competition between companies, combating irregularities, and promoting solutions that foster the development of competition on the market.

Competition-restricting practices include **anti-competitive agreements** and **abuse of a dominant position**. The law prohibits undertakings from entering into any agreements that have the object or effect of eliminating, restricting, or distorting competition. Prohibited agreements may, in particular, include price-fixing (price collusion), bid-rigging agreements (tender collusion), market sharing by territory, commodity, customer groups, or exchange of confidential information. Agreements incompatible with competition rules can be made by competitors, as well as businesses operating on different levels of the market. Meanwhile, abuse of the 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 the entry of new entities onto the market.

The President of UOKiK conducts administrative proceedings to eliminate competition-restricting practices. Where there is a suspicion that a violation of antitrust

regulations may have occurred, explanatory proceedings are initiated. They are conducted with regard to a specific matter, not against any specific entities. 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 enterprise 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 end in the **order to cease the prohibited practice** and in the enforcement of a **financial penalty** on the enterprise. The competition protection law also provides for **two conciliatory solutions** – voluntary submission to a penalty and the issue of a decision obliging an undertaking to take specific action. The **leniency programme** also offers a chance of reducing and sometimes avoiding financial penalties. It is available to undertakings involved in illegal arrangements and managing persons responsible for the collusion. The condition for accessing it is to cooperate with the President of UOKiK as a "crown witness" and to provide evidence or information about the existence of prohibited agreements.

The President of UOKiK may call on the undertaking, either as part of the proceedings or outside of the ongoing actions, to provide explanations, change, or cease the unfair activities – this is referred to as **soft calls**. Moreover, in order to gather information that may serve as evidence in the case, the Office conducts **inspections and searches** at the premises of companies.

UOKiK monitors the market for competition-restricting practices and analyses information obtained directly from consumers and undertakings. The Office can be notified about potential violations by **written notification** or anonymously via the **whistleblower platform**.

## NEW COMPETITION PROTECTION PROCEEDINGS IN 2021

38

EXPLANATORY  
PROCEEDINGS

12

ANTITRUST PROCEEDINGS CONCERNING  
COMPETITION-RESTRICTING PRACTICES,  
INCLUDING:

7 concerning horizontal agreements  
2 concerning vertical agreements  
1 concerning horizontal-vertical agreements  
2 concerning the abuse of a dominant position

26

CONCERNING  
BID-RIGGING

20 explanatory and  
6 antitrust proceedings

10

PROCEEDINGS INITIATED ON SUSPICION  
OF VIOLATING ART. 101 AND 102 OF  
THE TREATY OF THE FUNCTIONING OF  
THE EUROPEAN UNION (TFEU)

4 explanatory and 6 antitrust proceedings

2

ON THE VERIFICATION OF  
THE EXECUTION OF A DECISION

2

CONCERNING THE IMPOSITION OF  
A PENALTY<sup>1</sup>
<sup>1</sup> Proceedings for imposing a penalty for failure to execute or delay in

execution of a decision, for failure to provide the President of UOKiK with

the requested information or for providing false or misleading information,

for lack of cooperation in the course of a control.

Whistleblowers may use a special online form available at [report.whistleb.com/pl/uokik](https://report.whistleb.com/pl/uokik)

More information about the powers and activities of the President of UOKiK with regard to the combating of anticompetitive practices can be found in the service [konkurencja.uokik.gov.pl](https://konkurencja.uokik.gov.pl)



COMPETITION PROTECTION DECISIONS ISSUED IN 2021

|   |    |
|---|----|
| DECISIONS IN CASES CONCERNING COMPETITION-RESTRICTING PRACTICES, INCLUDING:                           | 13 |
| decisions concerning horizontal agreements  | 7  |
| decisions concerning vertical agreements  | 4  |
| decisions concerning horizontal-vertical agreements   | 1  |
| decisions on abusing a dominant position  | 1  |
| decisions imposing fines (33 financial penalties imposed on undertakings totalling PLN 127.3 million) | 11 |
| decisions based on national and EU legislation  | 6  |
| decisions taking into account the application of the leniency procedure                               | 4  |
| decisions with the application of the voluntary submission to a penalty procedure                     | 3  |
| commitment decisions  | 2  |
| decisions on bid-rigging  | 5  |
| DECISIONS ON IMPOSING A PENALTY <sup>2</sup>  | 3  |

<sup>2</sup> Proceedings for imposing a penalty for failure to execute or delay in execution of a decision, for failure to provide the President of UOKiK with the requested information or for providing false or misleading information, for lack of cooperation in the course of a control.

OTHER MEASURES TAKEN IN 2021

655

PROCESSED NOTIFICATIONS ON ANTI-COMPETITIVE PRACTICES

547

PROCESSED ANONYMOUS NOTIFICATIONS UNDER THE WHISTLEBLOWER PROGRAMME

66

OTHER SIGNALS

4

LENIENCY APPLICATIONS FILED

93

NEW SOFT CALLS TAKEN AGAINST UNDERTAKINGS<sup>3</sup>

1

INSPECTION CARRIED OUT<sup>4</sup>  
at 3 companies

7

SEARCHES CONDUCTED<sup>5</sup>  
at 18 companies

8

DETAILED JUSTIFICATIONS OF ALLEGATIONS

<sup>3</sup> Concerns calls made on the basis of article 49a of the Act on Competition and Consumer Protection.  
<sup>4</sup> Represents the number of proceedings in which inspections were conducted at business premises.  
<sup>5</sup> Represents the number of proceedings in which a search was conducted.

THE DECISIONS WITH THE HIGHEST TOTAL FINES IMPOSED  
ON BUSINESSES IN 2021 FOR COMPETITION-RESTRICTING PRACTICES

|                 |   |                      |   |  |
|-----------------|---|----------------------|---|--|
| DOK-8/2021      | "DBK" sp. z o.o. with its registered office in Olsztyn<br>ESA Trucks Polska sp. z o.o. with its registered office in Komorniki<br>TB Truck & Trailer Serwis sp. z o.o. with its registered office in Wolica<br>Van Tilburg-Bastianen Groep B.V. with its registered office in Breda (Netherlands)<br>WTC sp. z o.o. with its registered office in Długołęka | 5 fines <sup>6</sup> | for market sharing concerning the sale of DAF trucks          | PLN 118.1 million                          |
| DOK-6/2021      | "DBK" sp. z o.o. with its registered office in Olsztyn<br>Wanicki sp. z o.o. with its registered office in Mogilany<br>WTC sp. z o.o. with its registered office in Długołęka   | 3 fines              | for market sharing and tender collusion concerning DAF trucks | PLN 2.7 million                            |
| OTHER PENALTIES |   |                      |   | PLN 6.5 million                            |
|                 |   |                      |   | PLN 127.3 MILLION<br>TOTAL AMOUNT OF FINES |

Overview of activities in 2021

Abuse of a dominant position on the postal services market

Poczta Polska (Polish Post) engages in an open competition with other enterprises on the market of so-called non-universal postal services. At the same time, it acts as a counterparty towards them, lending its infrastructure to entities that do not have a sufficiently extensive postal infrastructure to provide services to their customers on the territory of the whole country. The Office had concerns about the terms of contracts that Poczta Polska had been signing for this purpose since 2016. In

the decision issued in 2021 (DOK-2/2021), the President of UOKiK admitted that **Poczta Polska's practices could have amounted to an abuse of its dominant position and obliged the enterprise to change its market behaviour**. The company shall not request its counterparties to provide commercial information about customers to whom they provide their services. Moreover, it shall apply a price list in the contracts concluded.

Commitment to change practices in the fitness industry

The President of UOKiK issued another decision (DOK-5/2021) concerning the fitness market in Poland. This was one of the themes of the Office's proceedings concerning

anticompetitive practices on that market – in 2020, a fine of more than PLN 32 million was imposed on the largest fitness chains for market sharing, while a fine of PLN 800 thousand was imposed on managing persons (decision DOK-6/2020). In 2021, Benefit Systems company, operator of Multisport cards and owner of more than 100 fitness clubs, **was obliged to undertake procompetitive measures** on the market of sports and recreation packages and to ensure equal treatment of fitness clubs seeking to cooperate with it within the framework of the Multisport programme. The Office suspected Benefit Systems of having arranged with some fitness club chains that they would not cooperate with its competitors on the market of sports and recreation packages. What is more, the company could only cooperate with fitness clubs that were parties to the collusion, which could unduly favour the position of these clubs on the market.

Representatives of the fitness industry were also sanctioned for **obstructing a search carried out by UOKiK staff**. Decisions made by the President of UOKiK concern Platinum Wellness company and its CEO, who was personally responsible for attempting to prevent the gathering of evidence in the proceedings. The fine imposed on the enterprise amounted to PLN 500 thousand, while the sanction imposed on the individual was PLN 150 thousand. Decisions (DOK-1/2021 and DOK-3/2021) are not legally binding, as they have been appealed by the parties.



**UOKiK's activities**  
In 2021, the President of UOKiK issued **2 decisions** committing enterprises to change their practices.

Highest penalties for anticompetitive practices in 2021

The President of UOKiK imposed fines in the total amount of more than PLN 118 million on dealers of DAF

trucks for entering into a competition-restricting agreement (decision DOK-8/2021). **The market was shared by 5 companies**: DBK from Olsztyn, ESA Trucks Poland from Komorniki (Wielkopolskie Voivodeship), TB Truck & Trailer Serwis from Wolica (Mazowieckie Voivodeship), Van Tilburg-Bastianen Groep from Breda in the Netherlands, and WTC from Długołęka (Dolnośląskie Voivodeship). Together, they agreed that each would sell DAF trucks in a specific area and not compete for customers in other parts of Poland. They also exchanged pricing information. In the case of four companies (excluding ESA Trucks Poland), the arrangements also concerned the exchange of information on bids submitted in tenders. Moreover, cartel participants constantly monitored each other's behaviour and contacted each other when it was suspected that one of them was violating the arrangements. As a result of the prohibited agreement which lasted at least 7 years, truck buyers did not have a free choice of a seller for many years and paid inflated prices for these vehicles. Sanctions imposed on 2 companies – TB Truck & Trailer Serwis and Van Tilburg-Bastianen Groep – were reduced by 50 percent. **The enterprises benefited from the leniency programme and from the voluntary submission to a penalty**, which resulted in a further reduction of penalties by 10 percent. It was also established in the proceedings that the management took an active part in the agreement. Therefore, the President of UOKiK imposed sanctions in the total value of nearly PLN 1.7 million on the 8 managers. Managers at TB Truck & Trailer Serwis and Van Tilburg Bastianen Groep benefited from the reduction of their penalties by a half, as they **benefited from the leniency programme**, while the representative of TB Truck & Trailer Serwis was granted a further reduction of 10 percent on the basis of a **voluntary submission to a penalty**.

Dealers of DAF trucks were also subject to the second proceeding conducted by the UOKiK against three enterprises: Wanicki from Mogilany, DBK from Olsztyn, and WTC from Długołęka. The proceedings established that **the companies shared the market** and agreed they would only submit bids in tenders held on a certain area but would not bid in the areas allocated to the other enterprises. The total fines imposed by the President of UOKiK on participants of the collusion exceeded PLN 2.65

<sup>6</sup> 8 fines were imposed on managing persons under the decision DOK-8/2021.

million (decision DOK-6/2021). Wanicki company benefited from a 10 percent reduction in the sanction, due to **voluntary submission to a penalty**. Both decisions are not legally binding.



#### UOKiK's activities

In 2021, the President of UOKiK issued **3 decisions involving the procedure of voluntary submission to a penalty**. The possibility to have their fines reduced by 10 percent was benefited from by 3 enterprises and one managing person.

#### Sale of Iveco trucks scrutinised by the President of UOKiK

The President of UOKiK initiated another antitrust proceeding to check whether undertakings involved in the sale of trucks were guilty of collusion. The case concerns an importer and official distributors of Iveco trucks who **may have shared the market, inflated prices, and exchanged confidential data for 10 years**. According to the information obtained by the Office in the course of searches, Iveco may have allocated so-called areas of responsibility to counterparties, which meant that they could only sell cars to customers allocated to specific places. The distributors could also exchange information about potential customers, arrange details of sales transactions and terms of their participation in specific public tenders. **Charges were formulated against 11 companies**: Iveco Poland from Warsaw, DBK from Olsztyn, CTC from Ruda Śląska, Przedsiębiorstwo Usługowo-Handlowe Exmot from Bydgoszcz, Siltruck from Skoczów, Trans-Poz (in restructuring) from Swadzim, Uni Truck from Zielona Góra, STC from Rzeszów, ADF Auto from Wrocław, On Road Truck Services from Poznań, and Truck Nord Center from Sierpc. Moreover, **the President of UOKiK formulated charges against 11 managers** who may have been directly responsible for the prohibited agreements.

#### Collusion on the office equipment market

The case concerned an anticompetitive agreement organised by Fellowes Poland in the years 2011-2019. The company **enforced minimum prices for distributors** to apply while selling office equipment online. The arrangements were made verbally, by email, and by telephone, as well as during individual meetings and group trips. The enterprise monitored whether its trading partners were complying with the arrangements. Distributors also observed each other's activities and informed Fellowes Poland about deviations from the collusion. There were cases of retaliation against entities that did not want to apply the prohibited arrangements - Fellowes Poland deprived them of special price lists, marketing support, training, and product deliveries. During the proceedings, **the enterprise benefited from the leniency programme** and provided UOKiK with new evidence in the case. It was unable to benefit from a full waiver of the penalty, because it was the instigator of the collusion and induced other entities to engage in anticompetitive behaviour. Therefore, the President of the Office decided to reduce the sanction by half. Moreover, Fellowes Poland secured a further reduction of the penalty by 10 percent, because of its **voluntary submission to the penalty**. The final penalty exceeded PLN 434 thousand. The decision (RKR-1/2021) is legally binding.

#### Another penalty for setting minimum resale prices

For nearly 8 years, Spokey company was setting minimum prices at which online stores were allowed to sell the brand's sports equipment, such as roller skates, scooters, and exercise mats. The evidence obtained by the Office i.a. in the course of a search, confirmed that in the years 2010-2018, the company was the organiser of a prohibited agreement with distributors who offered the products to consumers in online stores and on Allegro. Apart from imposing resale prices, Spokey monitored its partners to make sure they complied with the arrangements they had made. If a seller offered a product at a price lower than suggested, the company disciplined it, for example, by threatening to suspend deliveries. The President of UOKiK sanctioned Spokey for prohibited practices, imposing a fine of more than PLN 568

thousand (decision RŁO-1/2021). The final sanction was reduced by a half, as **the enterprise cooperated with the Office during the proceedings under the leniency programme**, providing it with valuable information about the agreement. At the same time, it refused to make a declaration of voluntary submission to a penalty, due to which the penalty was not reduced by another 10 percent. The resolution is final.



#### UOKiK's activities

**4 decisions issued taking into account the leniency procedure.**

#### Collusion on the market of dietary supplements

Solgar Poland introduces dietary supplements manufactured by the US company Solgar Inc. onto the Polish market. They are sold in brick-and-mortar stores, chiefly pharmacies, and online. The President of UOKiK issued the decision (DOK-4/2021) stating that **the company arranged with its retailer counterparties to apply minimum resale prices** to Solgar branded products. This meant that consumers may have had to pay more for their supplements than they would have done under conditions of fair market competition between these enterprises. The prohibited agreement lasted for at least 7 years, and the arrangements were made not only in writing, in the form of relevant provisions in the agreements between Solgar Poland and the distributors, but also informally – in email correspondence, and in telephone and personal contacts. A financial sanction of more than PLN 1.2 million was imposed on Solgar Poland. **Moreover, the President of UOKiK imposed fines on two managing persons** who were personally responsible for the collusion. The total fine in their case amounted to over PLN 280 thousand. The decision is not legally binding.



#### UOKiK's activities

The President of UOKiK imposed **10 fines on the managing persons in the total amount of PLN 1.96 million**, due to the application of competition-restricting practices.

#### Impeded purchase of bicycle equipment online

The antitrust proceedings initiated by the President of UOKiK concern Merida Poland company, which is the exclusive distributor of Merida bicycles in Poland. The enterprise engaged in practices consisting in **restricting distributors' capacity to sell these products online**. An entity that had an online store could only display the equipment on the site and take orders, but could not ship the bicycles to customers. Moreover, the distributors were unable to sell the goods on platforms such as Allegro, Ebay, and OLX. What it meant in practice was that consumers could collect the bicycles only in brick-and-mortar stores, often paying a higher price than the price offered by other sellers online. The charges formulated against the company are being verified in the course of the proceedings.

#### Change of practices for the benefit of consumers and the market

As was established by "white intelligence" conducted by UOKiK on the market of sports equipment, British bicycle manufacturer Trek Bicycle Corporation Limited **restricted the territory and sales channels for its products**. The President of UOKiK initiated explanatory proceedings to establish whether the company made the reservation in its contracts with around 80 distributors that they would only deliver bicycles to customers in brick-and-mortar points of sale, even in the case of purchases made online. These arrangements resulted in a de facto market



sharing between Trek's counterparties and may have implied the existence of an anticompetitive agreement. What is more, the distributors were only allowed to sell the bicycles in Poland, with the exclusion of online platforms such as Allegro. Following the intervention from the Office, the British enterprise ceased the prohibited activities and changed the terms of contracts signed with its counterparties, removing the provisions incompatible with the competition law from them. Furthermore, it committed to not restricting the territory and distribution channels for its goods. Consequently, the President of UOKiK closed the proceedings and refrained from imposing a fine on Trek.

#### Inflated prices of cleaning equipment

Kärcher company has been suspected of engaging in the **practice of imposing minimum prices for the resale of equipment online onto distributors**, which is incompatible with competition law. Sellers who apply lower rates may be sanctioned by having their discounts revoked and, in extreme cases, having their cooperation agreements terminated. The President of UOKiK initiated explanatory proceedings, while the UOKiK staff conducted a search in the company's premises.

#### Coordinated actions by basketball clubs

The UOKiK has been receiving signals concerning **coordinated actions targeting players from the Polish Basketball League and 16 basketball clubs**. After completing explanatory proceedings, the President of UOKiK initiated antitrust proceedings to establish the terms of cooperation with the basketball players and to investigate the suspension of the payment of their salaries. Basketball clubs operate as enterprises and are obliged to make independent and autonomous decisions. Meanwhile, a suspicion arose that they have been exchanging confidential information and eliminated the competition for the best players, which is a significant factor influencing competition between the clubs. According to the evidence material collected by the Office, the agreement may have restricted competition with regard to the arrangements concerning the reduction of basketball players' salaries.

#### Agreements on the salaries of speedway racing athletes

The UOKiK has been receiving signals from the market concerning the activities of the Polish Automobile and Motorcycle Federation, entities involved in the organisation of speedway races, and speedway racing clubs. Since they are recognised as enterprises under the Polish and EU competition law, they should be making autonomous decisions. Meanwhile, the information obtained by UOKiK indicates that these entities may have violated the terms of fair competition by i.a. **joint agreements on the maximum salaries paid to athletes and by reducing their salaries in the season of 2020 and 2021**. On this basis, the President of UOKiK initiated explanatory proceedings in which he will establish whether Polish speedway racing clubs apply prohibited practices, for example, by reaching anticompetitive agreements or abusing their dominant position.

#### UOKiK's activities

Highest penalty imposed on an enterprise for competition-restricting practices in 2021 – **nearly PLN 45.3 million**.



#### Bid-rigging in Silesia

In 2021, the President of UOKiK issued the decision (RKT-5/2021) concerning a prohibited agreement reached by 5 enterprises in a tender for keeping the town of Tychy clean in the years 2015-2018. According to the antitrust proceedings conducted by UOKiK, **the aim of the collusion was to make the contracting authority select a more expensive offer and to keep competitors out of the market**. The offer with the best price was made by a consortium of two companies: Bio-Ekos from Nowe Chechłó and Eko Ogród from Tychy. However, the consortium failed to file the required documents in the tender procedure, and therefore its bid was rejected on formal grounds. Thus, the town of Tychy signed a contract with the other consortium that participated in the collusion, consisting of Master Odpady in Energia as its leader, V&T, and An-Eko. The winning bid was about PLN 5.5 million more expensive than the most advantageous offer submitted in the tender. The President of UOKiK imposed fines on the 4 participants of the bid-rigging in the total amount of nearly PLN 1.2 million. During the proceedings, Bio-Ekos filed an application for the leniency programme. The enterprise avoided financial sanctions because it i.a. supplied important, previously unknown evidence in the case. The decision is not legally binding.

In 2021, the President of UOKiK initiated **26 proceedings concerning tender collusions** – including 20 explanatory and 6 antitrust proceedings. The proceedings concerned, among others:

- the supply and implementation of hospital information systems,
- renovation and construction services,
- supply of boots for the Army,
- architectural audits.



#### Decisions of the President of UOKiK concerning bid-rigging in 2021

In 2021, the President of UOKiK issued **5 decisions concerning bid-rigging**. They concerned the setting of conditions for bids in public tenders for i.a. the supply of goods and services related to the construction and maintenance of roads; the transport of children, young people, and disabled persons; the provision of tree felling, planting, and care services; and the collection and transport of food waste from soliders' canteens.

## Sales of Kia cars

The case concerns actions taken by Kia Poland and car dealers involved in collaboration with it. The President of UOKiK initiated explanatory proceedings to establish what was arranged by these enterprises with regard to the sale of Kia cars. UOKiK staff conducted searches on the premises of 4 companies after obtaining prior permission from the court. The Office suspects that **the companies may have engaged in market sharing, price-fixing, and bid-rigging in public tenders**. Such actions may have resulted in i.a. higher prices of vehicles.

## Electronic monitoring equipment

The UOKiK has been receiving signals from the market, suggesting that Dahua technology Poland **may have reached an agreement with authorised distributors on the obligation to resell Dahua products** at prices set out in the price list sent to them. This concerned electronic monitoring equipment, such as IP cameras, HDCVI cameras, recorders, video intercoms, and gate and porter stations. Failing to comply with the arrangements could lead to consequences, such as the revoking of discounts. The President of UOKiK initiated explanatory proceedings in the case, while UOKiK's personnel conducted searches in the headquarters of Dahua and its 3 trading partners. If the collected evidence confirms the suspicions, antitrust proceedings will be initiated and charges will be formulated against specific enterprises.

## New terms of collecting data from users of mobile devices

The President of UOKiK has initiated explanatory proceedings concerning the **new rules of the Privacy Policy and Personal Data Processing Policy on Apple devices**. It concerns all products running iOS 14.5, iPadOS 14.5, tvOS 14.5 operating systems and their later versions. Changes introduced by Apple have significantly limited the ability of third-party apps to obtain personal data in order to send personalised ads. Doubts have arisen as to whether the rules established by Apple were not designed to promote their own advertising service, Apple Search Ads, which could be a violation of competition

principles. The Office will therefore investigate whether the actions taken by Apple may amount to an abuse of market power and an attempt to eliminate competitors from the market of personalised advertising services.

## Sales policies of TV broadcasters and distributors

Telewizja Polsat and members of the Discovery group (Discovery Communications Europe, Discovery Communications Benelux, Discovery Poland, and Eurosport) are responsible for the distribution of TV shows that are sold, for example, to cable networks. The UOKiK has been receiving numerous signals from operators, industry associations, and consumers concerning **the restriction of the freedom to shape the programming offer and to choose TV shows**. The UOKiK analysed the sales policy of TV broadcasters as part of the explanatory proceedings. One of the issues that raised its objections was the fact that shows were sold in packages. In 2021, the President of UOKiK initiated 2 antitrust proceedings: against Telewizja Polsat and against 4 companies belonging to the Discovery capital group. The conduct of these enterprises may constitute **a prohibited abuse of their position on the market of TV show distribution**. The practice may involve forcing TV operators to buy multiple shows and include them in specific packages offered to viewers. As a consequence of this, consumers may be provided with a more expensive offer, which does not meet their actual needs.



### UOKiK's activities

In 2021, the President of UOKiK issued one decision imposing a **PLN 10 thousand fine on an undertaking for failing to provide information in the course of explanatory proceedings**. Decision (RGD-3/2021) is legally binding.

# 1.2 CONCENTRATION CONTROL

The President of UOKiK controls transactions that have or may have consequences for the Polish market. This applies to the concentration of undertakings 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 entity.

The **obligation to notify the President of the Office of the intent to concentrate** applies to undertakings whose total turnover exceeded EUR 1 billion worldwide or EUR 50 million in Poland in the year preceding the notification.

The President of UOKiK **approves concentration** if market competition will not be significantly restricted as a result of it. Otherwise – he **prohibits** the concentration of undertakings. Concentration may also be permitted **if some conditions are met** (so called conditional approval), as long as meeting these conditions does not lead to a significant restriction of market competition. Meanwhile, **the co-called extraordinary approval** of a transaction leading to a restriction of competition is issued in situations when the transaction will significantly contribute to economic development or technical progress, or will have a positive impact on the national economy.

If undertakings carry out a 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 impact that a transaction may have on the market, based on **information provided in applications** filed by undertakings and 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 is extended by additional 4 months.

Apart from analysing cases which are subject to national legislation, the **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 2021

|   |                       |
|---|-----------------------|
| NEW CONCENTRATION CONTROL PROCEEDINGS   | 329                   |
| TOTAL NUMBER OF DECISIONS   | 300                   |
| concentration approvals   | 295                   |
| conditional approvals   | 4                     |
| prohibition of concentration  | 1                     |
| DECISIONS TERMINATING PROCEEDINGS AT STAGE 1  | 287                   |
| DECISIONS TERMINATING PROCEEDINGS AT STAGE 2  | 13                    |
| DECISIONS IMPOSING A PENALTY FOR FAILURE TO NOTIFY ON AN INTENDED CONCENTRATION   | 0                     |
| DECISIONS IMPOSING A PENALTY FOR FAILURE TO PROVIDE INFORMATION   | 0                     |
| OTHER DATA  |                       |
| discontinuation of proceedings by a resolution  | 3                     |
| return of notification of the intention to consolidate  | 10                    |
| resolutions on proceedings moving on to stage 2   | 9                     |
| average time of proceedings at stage 1  | 33 days <sup>7</sup>  |
| average time of proceedings at stage 2  | 255 days <sup>8</sup> |
| cases reviewed in terms of the impact of concentration on the Polish market in connection with proceedings before the European Commission | 380                   |
| explanatory proceedings to analyse the market and determine whether there exists a notification obligation                                | 5                     |

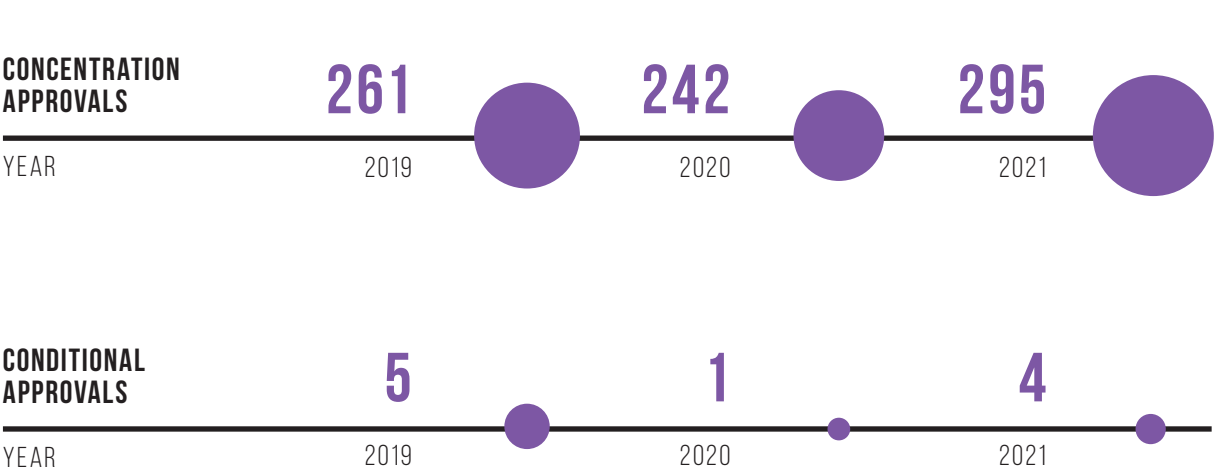
<sup>7</sup> Actual case review time, including time limits covered by the exemption under Art. 96 sec. 2 of the Act on

Competition and Consumer Protection (rounded to a whole day).

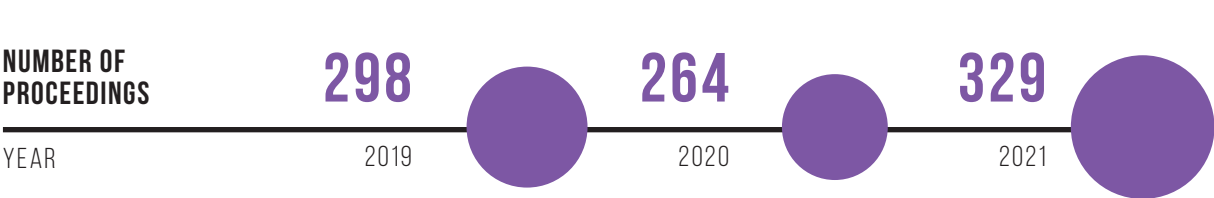
<sup>8</sup> Actual case review time, including time limits covered by the exemption under Art. 96a sec. 8 of the Act on

Competition and Consumer Protection (rounded to a whole day).

CONCENTRATION APPROVALS IN YEARS 2019-2021



CONCENTRATION CONTROL PROCEEDINGS INITIATED IN YEARS 2019-2021



SECTORS OF THE ECONOMY WITH THE HIGHEST NUMBER OF CONCENTRATION CONTROL DECISIONS ISSUED IN 2021

|  |
|--|
| real estate (including industrial property rental, office space rental, development services, and residential housing sales) |
| trade  |
| energy   |

Overview of activities in 2021

Concentration approvals

Local press publishing market

PKN Orlen filed an application for the approval of the acquisition of control over Polska Press in December 2022. One of the members of Orlen group is Ruch company, which is involved in the distribution of press and retail sale of press, conducted chiefly through a chain of kiosks. Meanwhile, Polska Press heads a capital group which operates mostly on local markets, publishing 20 regional dailies, nearly 120 local weeklies, and free press titles. During the proceedings, the President of the Office analysed the effects of the prospective transaction on the basis of information and data provided by the parties and by entities that compete against Ruch and that are counterparties to Polska Press. Materials sent by i.a. the Helsinki Foundation for Human Rights, the Journalists Association, and the Polish Ombudsman, were also included in the analysis. Finally, the President of UOKiK ruled that **the proposed transaction would not affect competition on the local press publishing market**, on which Polska Press had already been present, while PKN Orlen had not been present on it so far. There would only be a change in the owner of Polska Press company, while the market share of particular participants of the market would remain unchanged. It would be a **so-called vertical concentration** occurring between entities operating at different levels of the press market. What it means in practice is that the activities of the enterprises do not overlap. The companies obtained an unconditional approval of the merger (decision DKK-34/2021). The decision of the President of UOKiK was appealed by the Polish Ombudsman who formulated the charge that the question of the impact of the concentration on media pluralism and freedom of speech was not resolved in the course of the proceedings. The Polish Ombudsman also motioned for the suspension of the execution of the decision. The President of UOKiK responded to the appeal

by presenting his position, in which he emphasised that the only thing that is of fundamental importance in the issue of decisions on concentration is the assessment of the transaction in terms of its impact on maintaining the conditions of competition. The Polish Court of Competition and Consumer Protection suspended the execution of the decision until the appeal filed by the Polish Ombudsman has been considered<sup>9</sup>.

Provision of access to passive telecommunication infrastructure

Cellnex Poland company, operator of infrastructure used to provide i.a. mobile telecommunication services, obtained the consent from the President of UOKiK to acquire Polkomtel Infrastruktura (decision DKK-133/2021). **The activity of both enterprises consists in providing access to (hosting) i.a. telecommunication towers and masts to mobile network operators**. UOKiK conducted market research in the course of the proceedings, addressing questions to Orange Poland, T-Mobile Poland, and P4. Polska Tower also presented its position in the case on its own initiative. The President of the Office also asked the President of the Office of Electronic Communications for an opinion about the transaction. The market analysis showed that, although the participants of the concentration had a significant share in the market, competition would not be significantly restricted. Furthermore, the entry of an entity unrelated to any mobile network, providing infrastructure on market terms, should **strengthen competition in the sector**.

Conditional approvals

Food store market

Carrefour Poland obtained a conditional approval of the acquisition of part of the assets of Ingka Centres Poland. The asset in question is the retail space used by Tesco hypermarket in Aleja Bielany Shopping Centre in Bielany Wrocławskie. The transaction could go through,

**provided that the space of another Carrefour store**, amounting to 1500 square metres, located at ul. Hal-lera 52 in Wrocław, would be reduced. The case required conducting stage 2 of the proceedings and a market analysis. The Office ruled that, thanks to the fulfilment of the proposed condition, competition on the local market would be maintained, to the benefit of consumers (decision DKK-277/2021).

Pharmaceutical market

The President of UOKiK **approved the acquisition** of Euro-Apteka, Super Zdrowie, and MLV18 by DOZ (decision DKK-246/2021). Participants of the transaction operate on the pharmaceutical market. DOZ manages pharmacies, including "DOZ Apteki dbam o zdrowie". The acquired companies belong to the EA capital group, which owns "Euro-Apteka" and "Polonez" pharmacies. An analysis conducted by the Office showed that the concentration may restrict competition on the local market in Goleniów (where the pharmacies compete with each other on the area of one kilometre). At the same time, the Office was able to impose a condition on the enterprises, **which consisted in the sale of "Euro-Apteka" pharmacy**, owned by Medix in that town. Fulfilling this condition will prevent the transaction from having negative consequences for competition and consumers in the local market.

Local markets of medical services

Participants in this concentration are providers of healthcare services. Lux Med has several healthcare facilities across the country, while Lecznice Citomed operates several clinics in Toruń. UOKiK has received Lux Med's application for the acquisition of Lecznice Citomed. The investigation showed that the concentration may restrict competition on the local market for diagnostic imaging services in Toruń and its vicinity. Both undertakings own most of the equipment such as CT and MRI scanners, and perform most examinations in that area. **The President of UOKiK made the approval of the transaction conditional on the fulfilment of an additional requirement by Lux Med**. During the period specified in the decision, Lux Med is to maintain prices of

diagnostic magnetic resonance imaging and computed tomography services in Lux Med and Citomed facilities for patients who pay for medical services and do not use subscription packages (the so-called FFS patients) based on the Lux Med price list for Toruń as at 31 August 2021. During this period, any possible changes to Lux Med prices in Toruń cannot exceed the arithmetic mean of prices of MRI and CT services for FFS patients applicable in Lux Med facilities in cities with a population of more than 100,000. Moreover, the acquiring company will provide non-discriminatory access to diagnostic imaging services to patients without subscription packages (in terms of waiting times for these tests) during that period. The condition also applies to Lux Med's cooperation with public hospitals in subcontracting diagnostic imaging examinations (decision DKK-233/2021).

Market of healthcare services financed by the National Health Fund (NFZ)

Air Liquide company obtained an unconditional approval of the acquisition of Betamed from the President of UOKiK (decision DKK-191/2021). The enterprises operate i.a. on the markets of mechanical ventilation financed by the NFZ, which are provided to patients requiring ventilation who are being cared for at home. The companies compete at two levels – firstly, as part of competitive proceedings conducted by the NFZ; moreover, whenever there are several entities contracted by the NFZ in a given area, they compete for patients with the quality of services. Antitrust proceedings showed that the transaction would restrict competition in the regional markets of mechanical ventilation services provided to patients at home in Dolnośląskie and Małopolskie Voivodeships. For this reason, **several conditions were imposed on the companies**: Air Liquide would continue with Betamed's existing contracts with the National Health Fund for long-term home care for mechanically ventilated patients in the two voivodeships, with these contracts to expire by 30 June 2022. Meanwhile, Betamed would participate in the NFZ's competition proceedings for the provision of such services after that date, submitting a bid offering a range of services that would not be smaller than was offered in the previous years.

<sup>9</sup> Eventually, the Polish Court of Competition and Consumer Protection scheduled the hearing on the Polish Ombudsman's appeal for 7 June 2022.



Should the NFZ choose this bid, Betamed would sign a contract with the Fund. Air Liquide would establish a company or companies to which it would transfer part of Betamed's assets related to the provision of home mechanical ventilation services to patients in the two voivodeships. These entities would subsequently be sold to an independent investor which would not be affiliated with Air Liquide and which would have to be approved by the President of UOKiK.

Prohibition of concentration

Radio advertising and radio broadcasting market

The President of UOKiK prohibited the acquisition of Eurozet by Agora (decision DKK-1/2021). The concentration would result in the emergence of a strong radio group that could restrict competition on the local and nationwide radio advertising market. Agora heads a capital group that is primarily engaged in press publishing, publishing, and radio broadcasting (with TOK FM, Radio Żłote Przeboje, Radio Pogoda, and Rock Radio being its main radio stations), as well as in advertising sales. Eurozet is engaged in i.a. producing and broadcasting radio shows (with its main stations being Radio ZET, Meloradio, Antyradio, Radio Plus, and Chili ZET), sells advertising time, and manages online services. The operations of the two capital groups overlap primarily in radio broadcasting, the sale of advertising time, and the intermediation in the sale of radio advertising time. The transaction could result in the emergence of a duopoly and marginalisation of other radio groups and stations, as the two leading radio groups (Eurozet and RMF FM) would jointly hold c.a. 70 percent share in the market. The issue of the decision was preceded by a multi-faceted analysis of the market of radio broadcasting, radio advertising (local and nationwide) and related markets, as well as other markets on which participants of the concentration operate. At the same time, the conditions proposed by Agora would not eliminate the distortion of competition that would

emerge as a result of the transaction completely and effectively. The company appealed the decision of the President of UOKiK with the SOKiK, requesting a change of the decision and the recognition that the decision was issued without a legal basis or in gross violation of the law. Since the President of UOKiK upheld his position, several hearings in this case were held before the SOKiK. In May 2022, the court issued a judgment in which it modified the decision of the President of UOKiK, giving consent to the concentration<sup>10</sup>. The judgment is not final and the President of UOKiK intends to appeal it to the Appeal Court in Warsaw.

UOKiK takes over the concentration assessment from the European Commission

Participants of a concentration that has a Community dimension may apply to the EC to have its effects investigated by a member state if it is likely to significantly affect competition in that state. This was the case for the transaction consisting in Polski Koncern Naftowy Orlen S.A.'s acquisition of Polskie Górnictwo Naftowe i Gazownictwo S.A. In March 2021, The European Commission forwarded the assessment of its consequences to the President of UOKiK for consideration. According to the EC, the Office has relevant experience in the assessment of the properties of energy markets, which has been reflected in the decisions about this sector of economy that have been issued so far. Moreover, the main counterparties and competitors to Orlen and PGNiG are based in Poland, which means that UOKiK will be able to carry out market research allowing for the collection of evidence indispensable for an accurate assessment of the case with relative ease.

Investment control in 2021

The investment control law came into force in July 2020 as part of the government's Anti-Crisis Shield 4.0<sup>11</sup>. Since that time, the President of UOKiK has been able to block

acquisitions of Polish companies that have strategic importance for public order, security, or public health by entities<sup>12</sup> from outside a member country of the EU, EEA, and OECD. The protection applies to companies based in Poland, whose revenue from sales and services in Poland exceeded the equivalent of EUR 10 million in one of the two financial years preceding the notification of the intent to take over. The entity conducting the transaction is obliged to notify the Office about it.

Investment control proceedings, just like the proceedings concerning concentration, are divided into two stages. The President of UOKiK conducts a 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 a transaction raises no objections from the authority, the Office issues a no-objection decision and refrains from initiating control proceedings. Proper control proceedings (stage 2) are initiated with respect to cases that may pose a serious threat to public order, public security, or public health.

In 2021, the President of UOKiK initiated 8 investment control proceedings and issued 3 decisions. One of the proceedings, concerning the acquisition of Odlewnia Zawiercie by a Chinese company Meide Group, was the first one that reached stage 2 and was conducted as control proceedings. The analysis conducted by the Office showed that the intended investment did not pose a threat to security or public order. Therefore, the President of UOKiK discontinued the proceedings as groundless, which in practice meant that there were no objections to the transaction (decision DKK-243/2021). The examination of two other cases ended at the stage of verification proceedings with the issue of a no-objection decision.

One of these decisions concerned the discontinuance of proceedings, due to the lack of grounds for conducting them. For 5 cases, the Office issued decisions against initiating the verification proceedings, as the transactions in question were not subject to notification to the UOKiK.

UOKIK'S INVESTMENT CONTROL ACTIVITIES IN 2021

|  |   |
|--|---|
| NEW INVESTMENT CONTROL PROCEEDINGS   | 8 |
| DECISIONS ISSUED IN 2021   | 3 |
| decisions against initiating control proceedings and expressing no objections to transactions  | 2 |
| decisions to discontinue control proceedings due to the lack of grounds for it (which in practice means no objection to the transaction) | 1 |
| DECISIONS AGAINST INITIATING VERIFICATION PROCEEDINGS (TRANSACTIONS WERE NOT SUBJECT TO NOTIFICATION TO UOKIK)                           | 5 |

<sup>10</sup> Judgment of the Court of Competition and Consumer Protection of 12 May 2022, file number XVII AmA 61/21.

<sup>11</sup> The Act of 24 July 2015 on Control of Certain Investments (Dz. U. / Journal of Laws/ of 2020, item 2145).

<sup>12</sup> I.e. natural persons who are not citizens of an EU, EEA or OECD Member

State, as well as entities that are not natural persons and whose registered

office is not located within the territory of those Member States.

# 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 enterprise 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 support<sup>13</sup>, that does not violate market competition principles.

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

Support from public funds for companies may be granted on the basis of an **aid scheme** or as **individual aid**.

The President of UOKiK **issues opinions about projects** that assume the provision of such aid in terms of their compliance with the EU law and the requirement to notify the EC about it. The Office advises institutions responsible for providing state aid in Poland on this matter.

Projects awarding state aid or modifying state aid have to be notified to the European Commission. The President of UOKiK plays a key role in that process by **notifying the EC of any intent to provide support to an enterprise** by a Polish administration body or any other public or private entity acting under the authority of the state. Member States are obliged to refrain from implementing aid measures until the European Commission has issued the final decision on its compatibility with the Community law.

The **monitoring of support provided to Polish undertakings** on the basis of reports filed by institutions providing aid is another significant power of the President of UOKiK. All data is exchanged and collected within the SHRIMP system (Aid Scheduling, Reporting, and Monitoring System).

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 in a confidential procedure. This ensures that the future notification is better prepared and the process of its verification is more efficient.

## Overview of activities in 2021

### Counteracting negative consequences of the COVID-19 pandemic

In 2021, UOKiK **conducted 19 notification proceedings** related to the counteracting of negative consequences of the COVID-19 pandemic, including 5 related to successive versions of the Anti-Crisis Shield.

The Office has also notified the modifications of aid schemes with the European Commission, in connection with subsequent amendments in the Communication from the Commission "Temporary framework for aid measures to support the economy in the context of the ongoing COVID-19 epidemic"<sup>14</sup>. They were introduced in February and November 2021, extending the Communication onto **new aid measures and modifying the scope of its application and terms of provision of aid**. The document is to remain in force until 30 June 2022<sup>15</sup>.



**In 2021, the Office prepared reports and analyses concerning state aid, including:**

#### For the Chancellery of the Prime Minister:

- A report on state aid granted to enterprises in Poland in 2020;
- Report on *de minimis* aid granted to enterprises in Poland in 2020.

#### For the European Commission:

- 2020 Polish state aid report – prepared and submitted via the SARI electronic reporting system;
- two 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 in the context of the ongoing COVID-19 epidemic of 19 March 2020 and its changes".

<sup>13</sup> Such aid must not exceed EUR 200 thousand gross for a single beneficiary within 3 calendar years, and in the case of the road transport sector, EUR 100

thousand.

<sup>14</sup> Communication from the Commission "Temporary framework for aid measures to support the economy in the context of the ongoing COVID-19 epidemic" (Dz.Urz. / Official Journal/

EU C 91, 20 March 2020, as amended).  
<sup>15</sup> In accordance with the Communication from the Commission – Sixth modification to the temporary framework for state aid measures to support

the economy in the context of the ongoing COVID-19 epidemic and amendment to the Annex to the Commission Communication to the Member States on the application of Articles 107 and

108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance (2021/C 473/01) (Dz.Urz. / Official Journal/ EU C 473, 24 November 2021).

Other proceedings concerned, among others:

- schemes implemented by the Polish Development Fund,
- the Pan-European Guarantee Fund,
- bus transport,
- Poczta Polska (Polish Post) S.A.

The UOKiK conducted a consultation and prepared Poland's position on subsequent draft amendments to the Communication of the Commission.

Issuing opinions about state aid projects

In 2021, UOKiK issued opinions about 42 projects concerning aid schemes and individual aid (including restructuring aid). These included:

- projects adapting the terms of provision of state aid to the new regional aid map for Poland for the years 2022-2027 (included in the Regulation of the Council of Ministers of 14 December 2021<sup>16</sup>),
- individual aid involving the recapitalisation of "Uzdrowisko Rymanów" S.A. company by Podkarpackie Voivodeship,
- restructuring aid for Stocznia Remontowa S.A. (Shiprepair Yard S.A.),
- restructuring aid for Rafako S.A.,
- the acquisition of new shares in Operator Gazociągów Przesyłowych Gaz-System S.A. by the State Treasury.

Participation in proceedings conducted before EU institutions

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

- support scheme for offshore wind farms,
- "My EV" programme project,
- 2 projects implemented as part of IPCEI Hydrogen Industry and 4 projects implemented as part of IPCEI Hydrogen Technology, which are Important Projects of Common European Interest related to the hydrogen industry,
- aid scheme for the Polish coal mining industry,
- regional aid map for Poland for the years 2022-2027,
- RES shares – support for renewable sources of energy until 2027,
- restructuring aid project for Rafako S.A.,
- restructuring aid project for Stocznia Remontowa Nauta S.A. (Nauta Shiprepair Yard),
- restructuring aid project for Przewozy Regionalne sp. z o.o.

Examples of proceedings conducted before the European Commission concerning alleged aid (complaints filed with the EC):

- supposed state aid for Kuźnia Łabędy S.A. to finance a production plant,

- complaint filed by the Polish Council of Shopping Centres,
- State Treasury's acquisition of 100 percent share in PGE EJ 1.



Important decisions made by the EC with regard to public aid:

**20 April 2021** – The EC concluded that the restructuring aid awarded to Przewozy Regionalne company is compatible with the internal market but imposed additional obligations on Poland.

**20 May 2021** – The EC approved the support programme for Polish offshore wind farms.

Examples of proceedings conducted before the Court of Justice of the European Union (CJEU):

- case concerning aid for Autostrada Wielkopolska S.A. (AWSA) – in November 2021, The CJEU dismissed AWSA's appeal against the judgment of the EU's General Court in the case, which led to the EC's decision (2018/556 of 25 August 2017) becoming final – AWSA has to return PLN 894 million, enlarged by interest, to the State Treasury, in connection with claiming state aid incompatible with the internal market.
- case of Gdynia Municipality and Port Lotniczy Gdynia-Kosakowo sp. z o.o. – in December 2021, the EU's General Court dismissed appeals filed by the city of Gdynia and Kosakowo municipality against the decision of the European Commission, which ordered the state aid awarded for the construction of Gdynia-Kosakowo airport to be returned in 2014.

Inter-ministerial cooperation

The Office has cooperated with other ministries on i.a. the following cases:

- legislative work on the draft law amending the act on real estate management and some other acts – cooperation with the Ministry of Economic Development and Technology,
- preparing, consulting, and issuing opinions about aid scheme projects providing for conditions for awarding public aid in connection with the COVID-19 pandemic and their implementation – cooperation with i.a. the Social Insurance Institution (ZUS), the Polish Development Fund, the Ministry of Development, Labour and Technology (currently the Ministry of Economic Development and Technology) and the Ministry of Family and Social Policy,
- coordination of SHRIMP and SHRIMP MF systems, data exchange, drafting of reports on state aid, arrangements on the report on arrears of enterprises in the payments of benefits due to the public finance sector – cooperation with the Ministry of Finance,
- arrangements on the report on state aid and on the report on state aid provided in agriculture and fisheries sectors – cooperation with the Ministry of Agriculture and Rural Development,
- work on the act on the terms of implementation of tasks financed from European funds in the financial perspective 2021-2027; transferring data on state aid to the new system SL2021 – cooperation with the Ministry of Development Funds and Regional Policy.

<sup>16</sup> Regulation of the Council of Ministers of 14 December 2021 on the development of a regional aid map for the years 2022-2027 (Dz.U. / Journal of Laws/ of 2021, item 2422).

UOKIK'S STATE AID ACTIVITIES IN 2021

| PROVIDING OPINIONS ON STATE AID PROJECTS AND ANALYSIS OF DRAFT GOVERNMENT DOCUMENTS       |       |
|---|-------|
| opinions issued by UOKiK, including:  | 42    |
| opinions on aid schemes   | 28    |
| opinions on individual aid  | 12    |
| opinions on individual restructuring aid  | 2     |
| received and reviewed requests for interpretation of state aid regulations                | 684   |
| reviewed notifications of <i>de minimis</i> programmes                                    | 1,584 |
| draft government documents reviewed in terms of recognising specific support as state aid | 561   |
| NOTIFICATION PROCEEDINGS BEFORE THE EUROPEAN COMMISSION                                   |       |
| aid projects pre-notified by the EC through UOKiK, including:                             | 9     |
| projects concerning aid schemes   | 5     |
| projects concerning individual aid  | 4     |
| projects notified to the EC through UOKiK, including:                                     | 32    |
| projects concerning aid schemes   | 25    |
| projects concerning individual aid (including restructuring aid)                          | 7     |
| projects approved by the EC*  | 30    |
| withdrawn projects*   | 1     |
| projects examined by the EC under the so-called preliminary examination procedure*        | 33    |
| projects under formal investigation*  | 1     |
| projects notified to the EC through the UOKiK under block exemptions, including:          | 146   |
| projects concerning aid schemes   | 36    |
| projects concerning individual aid  | 110   |

\* Statistics also include cases reported in previous years.

# 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 practice and threatening or infringing an important interest of the other party.

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 specific enterprises.

To protect the interests of suppliers or buyers of agricultural and food products, the President of UOKiK initiates **proceedings on practices unfairly using 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 **explanatory proceedings** intended, in particular, to establish the occurrence of a violation of the law that justifies the initiation of proceedings on practices unfairly using contractual advantage.

The proceedings may end in the issue of an order to cease the prohibited practice and enforcement of a fine on the undertaking. The President of the Office may also refrain from imposing a fine on the undertaking, if the trader undertakes to cease the prohibited practice or to remedy its consequences.

In 2021, **a new act** on counteracting unfair use of contractual advantage came into force<sup>17</sup>, replacing the regulations that had been in force since 2017. The change in regulations results from the duty to implement Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain. The implemented solutions are expected to improve the position of farmers, as well as other suppliers, in relation to the largest entities on the market. More information: 3.2 Drafting of legal regulations.

The UOKiK has prepared information about new regulations in the form of questions and answers: **przewaga-kontraktowa.uokik.gov.pl**.

<sup>17</sup> Act of 17 November 2021 on counteracting unfair exploitation of contrac-

tual advantage in trade in agricultural and food products (Dz.U. / Journal of

Laws / of 2021, item 2262). The new regulations came into force on 23 De-

cember 2021.



Legal changes

The new act identifies specific practices the use of which is **absolutely prohibited** (so-called black practices), as well as practices that are **permitted under specific conditions** (so-called grey practices). For these practices, there is no requirement to examine whether they are contrary to good practice and threatening or infringing an important interest of the other party.

**Absolutely prohibited practices** include i.a.:

- **cancellation of an order by the buyer** less than 30 days before the expected delivery date of perishable agricultural or food products,
- requiring the buyer **to pay the supplier for deterioration or loss of agricultural or food products** that occur on the buyer's premises or after the products have passed to the buyer for reasons not attributable to the supplier,
- threatening or taking **commercial retaliation measures** against the supplier when the latter is exercising his rights under the contract or the law,
- **unjustifiably reducing the amount owed** for the supply of agricultural or food products after the buyer has accepted them in full or in part, in particular by demanding a discount.

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. They consist in i.a.:

- **the return of unsold products by the buyer to the supplier** without payment for those products or their disposal,
- **charging the supplier with a fee** as a condition for storing, presenting or offering its products for sale, or making such products available on the market,
- requiring the buyer **to pay the supplier all or part of the cost of price reductions on products** sold by the buyer as part of a promotion organised by the buyer.

Anyone who is aware of unfair trading practices can **notify the UOKiK about them**. The notifying party is guaranteed **full anonymity**, and his/her data and information the disclosure of which could injure his/her interests, are not disclosed at any stage of the proceedings.

Irregularities in the agriculture and food industry can be reported to UOKiK using the form: [ankieta.uokik.gov.pl/formularz-zgloszenie-przewaga/](https://ankieta.uokik.gov.pl/formularz-zgloszenie-przewaga/).

THE UOKIK'S ACTIVITIES CONCERNING CONTRACTUAL ADVANTAGE IN 2021

NEW PROCEEDINGS

|   |   |
|---|---|
| explanatory proceedings   | 5 |
| instituted proceedings regarding practices unfairly using contractual advantage | 3 |

DECISIONS ISSUED

|  |   |
|--|---|
| decisions on unfair use of contractual advantage, including: | 3 |
| imposing a fine  | 2 |
| commitment   | 1 |

OTHER MEASURES

|   |    |
|---|----|
| controls as part of contractual advantage proceedings | 2  |
| controlled undertakings                               | 9  |
| considered notifications from undertakings            | 52 |
| soft calls to undertakings                            | 8  |

THE DECISIONS WITH THE HIGHEST TOTAL FINES IMPOSED ON BUSINESSES IN 2021 FOR PRACTICES INVOLVING UNFAIR USE OF CONTRACTUAL ADVANTAGE

|            |   |         |                 |
|------------|---|---------|-----------------|
| RBG-4/2021 | Kaufland Polska Markety sp. z o.o. sp. j. with its registered office in Wrocław | 2 fines | PLN 124 million |
| RBG-3/2021 | Eurocash S.A. with its registered office in Komorniki                           | 1 fine  | PLN 76 million  |

PLN 200 MILLION  
TOTAL AMOUNT OF FINES



Overview of activities in 2021

Charging unjustified fees from retail chain suppliers

The President of UOKiK imposed on Eurocash a fine of PLN 76 million for unfair use of contractual advantage (decision RBG-3/2021). The enterprise is the owner of the largest chain of wholesalers in Poland and organiser of numerous popular chain stores. The proceedings conducted by UOKiK showed that the enterprise imposed numerous additional unjustified fees on suppliers of agricultural and food products. Some of the services paid for by the counterparties were never rendered at all, and some should have been provided by the company free of charge under the contracts with its suppliers. Additionally, the suppliers received no information on the cost and results of certain services. These actions taken by Eurocash were aimed at reducing the amount of remuneration paid to entities supplying food and agricultural products to stores. The enterprise has appealed the decision.

Another penalty for the use of retroactive discounts

The President of UOKiK continually monitors the discounts policy of retail chains applied to suppliers of agricultural and food products. The proceedings against Kaufland Polska Markety, which was charged with unfair use of contractual advantage, are an example of this activity. The Office challenged 2 practices applied by the company, which affected primarily small and medium businesses, as well as farms and producer groups.

The first practice consisted in establishing the terms of cooperation with some suppliers of agricultural and food products after the beginning of a given year. In such situations, with prolonged contract negotiations for the next year, the supplier did not know on what terms the deliveries were made from the beginning of the year to the date of signing the contract. In the new contract, additional discounts were often introduced, or the company increased the amount of the existing ones, and the suppliers had to pay compensation on this account to Kaufland Markety Polska. This meant a retrospective reduction of the already paid selling price of products

from the beginning of the year to the date of signing a new contract. This practice affected more than 800 contractors in the years 2018-2020, with 72 of them having to pay unfavourable compensation in a total amount of nearly PLN 37 million.

The second practice consisted in charging certain agricultural and food product suppliers with additional discounts not provided for in the contract. Therefore, the contractor of the retail chain did not know when it would be asked to grant this discount or what its amount would be. Kaufland collected unfair retroactive discounts from 176 suppliers in the total amount of PLN 30 million.

The President of UOKiK imposed on Kaufland Polska Markety a fine of nearly PLN 124 million (decision RBG-4/2021). The decision is not legally binding.

"Discounts applied by retail chains" - report by UOKiK

In April 2021, The Office released a report summarising the discount policies of 19 largest retail chains in Poland with regard to suppliers of food and agricultural products. It is the outcome of a series of preliminary proceedings conducted by the Office in 2020 to analyse the practices of enterprises with regard to their compliance with the act combating unfair use of contractual advantage. 20 suppliers of agricultural and food products representative for the Polish market were engaged in the proceedings and given an opportunity to inform the Office about the details of their cooperation with retail chains.

The analysis conducted by the Office identified several types of practices which can be considered a sign of unfair use of contractual advantage by retail chains. One such practice is the introduction of new discounts after completion of transactions, which were neither included in the signed contract nor agreed upon at the start of the cooperation. Another issue which raises concerns is the practice of defining terms of cooperation with suppliers, including with respect to discounts, for a given period after it has already started, when the supplier has already committed its resources to making deliveries. Another practice unfavourable to suppliers is simultaneous ap-

plication of multiple discounts (e.g. monthly, quarterly, and annual), i.e. repeated reduction in the price of delivered goods. Further reservations stem from excessive contractual penalties related to the settlement of discounts granted by suppliers. It may also be unlawful for the chain to unilaterally lower the sales threshold which constitutes the basis for granting a particular discount.

The report "Discounts applied by retail chains" is available at the [przewagakontraktowa.uokik.gov.pl](https://przewagakontraktowa.uokik.gov.pl)

Order to disburse outstanding payments to suppliers

In 2021, the President of UOKiK continued his measures against enterprises guilty of delays in payments to suppliers of agricultural and food products. One of the enterprises that have failed to settle their outstanding liabilities was SCA PR Polska (SCA), a member of the capital group responsible for purchases in the Intermarche chain. The proceedings conducted by UOKiK established that the total amount of late payments owed by the company in the years 2019-2020 reached several hundred million PLN. Moreover, in the case of discrepancies in the price or quantity of invoiced goods, the company failed to pay the suppliers for all invoiced goods until the situation was clarified. UOKiK President also questioned the excessively lengthy process of clarifying discrepancies in certain cases, which resulted in unjustified delays in payment. Finally, the President of UOKiK obliged SCA to change the practices that could constitute an unfair use of contractual advantage (decision RPZ-7/2021). As a result, SCA PR Polska is to settle any late payments towards its suppliers of agri-food products, along with interest, as well as to change the way of settling disputed invoices.

Amendment of contracts with suppliers of milk

The milk market is continually monitored by UOKiK. In 2021, provisions applied by Polmlek company in model

contracts used in relations with suppliers raised objections of the President of the Office. They referred to i.a. the exclusivity clause (the requirement to ensure that produced milk is supplied exclusively to the company), the method of determining prices, and the absence of regulations regarding the procedure of quality control and the possibility of verifying its results. Following an intervention of the Office, the company committed to changing the terms of cooperation with its suppliers. Moreover, until the process of amending the contracts is completed, Polmlek shall not enforce the contractual provisions that were questioned by UOKiK, and shall ensure that all suppliers have the possibility to use the rights resulting from the new model contract.

Rapeseed and grain purchase contracts

The President of UOKiK initiated proceedings against PolishAgri, which is a company involved in the purchase and sale of grain and rapeseed. It cooperates with hundreds of suppliers of agricultural and food products, mostly individual farmers running small-scale farms. The parties operate on the basis of a ready-made model contract and individual suppliers have no influence over its contents. According to evidence collected by the Office, the company burdens the farmers with excessive risk associated with the fulfilment of the contracts. The contract stipulates that they are obliged to deliver the agreed-upon quantities of grain and rapeseed, even if they are unable to do so because of circumstances outside their control, particularly force majeure events. Moreover, faced with the threat of significant financial sanctions, the farmers had to purchase the produce in their own name in order to fulfill the contract signed with the company in these situations. PolishAgri was charged with unfair use of contractual advantage with respect to its suppliers.

The President of the Office expressed similar reservations with regard to selected clauses of contracts applied by Cefetra Polska in transactions with farmers supplying it with grain, rapeseed, and legumes. Proceeding has been initiated against the company for unfair use of contractual advantage.

# 1.5 PAYMENT GRIDLOCKS

A payment gridlock refers to a situation where **an undertaking does not receive its receivables from a counterparty on time**. Debts accumulated in this manner are 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 an obstacle to business operations. Gridcks are particularly damaging for micro, small and medium-sized undertakings, contributing to their liquidity problems and constituting a barrier to investment and growth.

As of 1 January 2020, **the President of UOKiK possesses competencies in the area of counteracting payment gridlocks**. The President conducts proceedings and imposes administrative fines on entities that are in delay with payments to their counterparties.

Proceedings for excessive monetary delay are only initiated **ex officio** on the basis of evidence and information obtained by UOKiK. They may originate from **notices** submitted by entities suspecting that they have become a victim of a payment gridlock.

A notice of suspected payment gridlocks can be submitted in person at the Office's headquarters, sent to UOKiK by post or electronically at: **zatory@uokik.gov.pl**. The Office assures the anonymity of the complainant.

Excessive delay in the fulfilment of monetary benefits occurs when, over a period of 3 consecutive months, the sum of the value of all monetary benefits unfulfilled or fulfilled after the deadline by a given entity amounts to **at least PLN 2 million**<sup>18</sup>. This applies to overdue payments from 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 regulations on payment gridlocks simultaneously establish that the President of UOKiK automatically waives the penalty if the value of benefits that the undertaking did not receive or received with a delay during the examined period exceeds the amount of liabilities that the undertaking did not pay or paid with a delay.

<sup>18</sup> In 2020-2021, the total value of outstanding receivables amounted to PLN 5 million.

Undertakings may request the President of UOKiK to reconsider the case or file a complaint to the Voivodeship Administrative Court in Warsaw.

Key solutions against payment gridlock are contained in the Act on counteracting excessive delays in commercial transactions<sup>19</sup>. **The need to review certain provisions** became apparent as early as the first year of its implementation. Work on amending the Act is in progress within the framework of inter-ministerial arrangements, the aim of which is, above all, to make the provisions more flexible in terms of taking into account special economic conditions or specific circumstances concerning undertakings when calculating the amount of the fines. More information: 3.2 Drafting of legal regulations.



## UOKiK's website on payment gridlocks

At **zatoryplatnicze.uokik.gov.pl**, it is possible to learn about the regulations on limiting payment gridlocks, the powers of the President of UOKiK in this respect and examples of methods of calculating penalties for specific debt amounts.

## Overview of activities in 2021

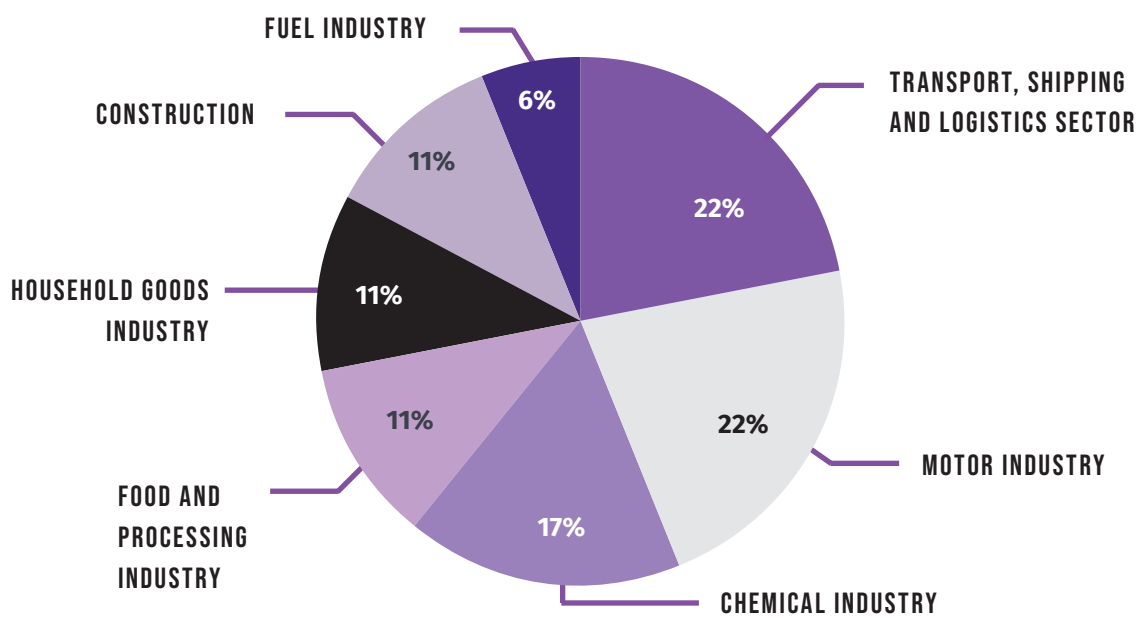
The Office has conducted **108 investigations into excessive delays** in the payment of monetary benefits, 8 of which were initiated in 2021. They primarily concerned entities from the food and processing industry, the transport and logistics industry, as well as companies involved in retail trade.

<sup>19</sup> The Act of 8 March 2013 on counteracting excessive payment delays in commercial transactions (Dz. U. / Journal of Laws/ of 2021, item 424).

The President of UOKiK issued **19 decisions** against undertakings causing payment gridlocks in the economy. In the case of **6 undertakings**, he imposed financial penalties for excessive delays in the payment of monetary benefits to counterparties. In three cases, the parties to the proceedings requested the President of the Office to reconsider the case, and in the remaining cases, they did not question the decision.



SECTORS OF THE ECONOMY WHERE UOKIK ISSUED DECISIONS  
STATING THE EXISTENCE OF PAYMENT GRIDLOCKS



UOKIK'S ACTIVITIES ON PAYMENT GRIDLOCKS IN 2021

| PROCEEDINGS CONCERNING EXCESSIVE DELAYS IN MEETING MONETARY BENEFITS   |     |
|--|-----|
| new proceedings  | 8   |
| in total conducted in 2021   | 108 |
| DECISIONS AND RESOLUTIONS ISSUED IN 2021 WITH REGARD TO PAYMENT GRIDLOCKS  |     |
| resolutions on excessive delays in the fulfilment of monetary benefits, including:   | 21  |
| decisions finding excessive delays in the fulfilment of monetary benefits and imposing an administrative fine                  | 7   |
| decisions finding excessive delays in the fulfilment of monetary benefits but waiving the fine                                 | 12  |
| decisions to discontinue proceedings in cases where no undue delay in the fulfilment of monetary benefits has been established | 2   |
| motions for reconsideration  | 3   |

OTHER MEASURES IN 2021

18

NOTICES ON SUSPECTED  
CASES OF PAYMENT  
GRIDLOCKS

7.8

MILLION

INVOICES CHECKED AS PART  
OF THE PROCEEDINGS

1.42

PLN MILLION

TOTAL VALUE OF  
PENALTIES IMPOSED

PLN 426.6

THOUSAND

HIGHEST PENALTY IMPOSED  
ON AN UNDERTAKING

965.38

PLN

MILLION

TOTAL AMOUNT OF PAYMENT GRIDLOCK IDENTIFIED  
IN THE DECISIONS ISSUED

69,477

ENTITIES SUBJECT TO ANALYSIS  
WITHIN THE FRAMEWORK OF THE  
PROBABILITY ANALYSIS

236.6

MILLION

NUMBER OF INVOICES EXAMINED  
WITHIN THE FRAMEWORK OF THE  
PROBABILITY ANALYSIS



2.1  
PRACTICES VIOLATING  
COLLECTIVE CONSUMER  
INTERESTS AND PROHIBITED  
CLAUSES IN MODEL  
CONTRACTS

2.2  
SUPERVISION OVER THE  
TRADE INSPECTION

2.3  
PRODUCT SAFETY  
AND MARKET  
SURVEILLANCE

2.4  
LABORATORIES

2.5  
OUT-OF-COURT DISPUTE  
RESOLUTION SYSTEM

2.6  
COOPERATION WITH CONSUMER  
OMBUDSMEN AND CONSUMER  
ORGANISATIONS

2.7  
EUROPEAN CONSUMER CENTRE  
BY UOKIK

# CONSUMER PROTECTION

## 02

PRACTICES VIOLATING COLLECTIVE  
CONSUMER INTERESTS  
AND PROHIBITED CLAUSES  
IN MODEL CONTRACTS

SUPERVISION OVER THE TRADE  
INSPECTION

PRODUCT SAFETY AND MARKET  
SURVEILLANCE

LABORATORIES

OUT-OF-COURT DISPUTE  
RESOLUTION SYSTEM

COOPERATION WITH CONSUMER  
OMBUDSMEN AND CONSUMER  
ORGANISATIONS

EUROPEAN CONSUMER CENTRE  
BY UOKIK

# 2.1 PRACTICES VIOLATING COLLECTIVE CONSUMER INTERESTS AND PROHIBITED CLAUSES IN MODEL CONTRACTS

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

The President of UOKiK initiates **administrative proceedings** in cases of significant importance for collective consumer interests. The proceedings may be concluded with an order to cease the questioned activity and imposition of a financial penalty or with a voluntary commitment of the trader to change its behaviour in order to eliminate the infringement. Decisions of the President of the Office may also provide for the application of public compensation as the means to remove the effects of the infringement. Proceedings against an undertaking are often preceded by **explanatory proceedings** that serve as a preliminary determination of whether an infringe-

ment has occurred. The President of UOKiK may also **request the undertaking** to provide an explanation or to change an unlawful practice without initiating 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 warning** regarding the actions of a particular undertaking and their potential consequences. This solution is used if there is a justified suspicion that the practices may cause significant losses or adverse effects for a wide range of consumers.

UOKiK **identifies infringements** by monitoring the behaviour of undertakings and analysing signals received from the market. In 2021, the highest number of complaints in the area of services related to the financial and telecommunications industries, and in the case of product sales – electronics and household appliances. Furthermore, UOKiK provides **free legal assistance** as part of the consumer helpline and e-advice system under the subsidy system. The President UOKiK of also issues **significant views in consumer protection court cases**. In such a way, through its expertise, the Office serves to assist the ordinary court in the comprehensive review of the case.

## NEW PROCEEDINGS CONCERNING CONSUMER PROTECTION IN 2021

171

EXPLANATORY PROCEEDINGS

45

ON PRACTICES VIOLATING  
COLLECTIVE CONSUMER  
INTERESTS

4

ON THE RECOGNITION OF  
CONTRACTUAL CLAUSES  
AS PROHIBITED

23

ON THE VERIFICATION OF THE  
EXECUTION OF A DECISION

15

ON THE IMPOSITION OF  
A PENALTY<sup>1</sup>

## EXPLANATORY PROCEEDINGS INITIATED IN 2019-2021

NUMBER OF  
PROCEEDINGS

87

88

171

YEAR

2019

2020

2021

<sup>1</sup> Proceedings concerning the imposition of a penalty for failure to provide the President of UOKiK with the

requested information or for providing false or misleading information, or lack of cooperation in the course of

the inspection.

DECISIONS CONCERNING CONSUMER PROTECTION ISSUED IN 2021

|  |    |
|--|----|
| DECISIONS IN CASES OF PRACTICES VIOLATING COLLECTIVE CONSUMER INTERESTS, INCLUDING <sup>2</sup> :                            | 49 |
| decisions imposing a financial penalty on the undertaking (61 financial penalties amounting to PLN 150 million) <sup>3</sup> | 26 |
| commitment decisions (13 with public compensation)   | 14 |
| DECISIONS ON RECOGNITION OF CONTRACTUAL CLAUSES AS PROHIBITED, INCLUDING:  | 10 |
| decisions imposing a financial penalty on the undertaking (35 financial penalties amounting to PLN 3.3 million)              | 9  |
| commitment decision (with public compensation)   | 1  |
| DECISIONS IMPOSING A PENALTY <sup>4</sup>  | 12 |

OTHER MEASURES TAKEN IN 2021

|   |  |   |
|---|--|---|
| 17,670  | 105,975  | 408   |
| SIGNALS RECEIVED FROM THE MARKET <sup>5</sup>   | CASES REPORTED THROUGH THE CONSUMER HELPLINE AND E-ADVICE SYSTEM | NEW SOFT CALLS CONCERNING UNDERTAKINGS <sup>6</sup> |
| 12  | 442  |   |
| INSPECTIONS <sup>7</sup><br>performed on 16 undertakings, including 7 undertakings inspected using mystery shoppers | SIGNIFICANT VIEWS ISSUED IN COURT CASES                          |   |

<sup>2</sup> The decisions provided are exemplary.  
<sup>3</sup> Financial penalties are imposed for a particular practice, and as such, more than one such penalty may be imposed through a single decision.

<sup>4</sup> Decisions to impose a penalty for failing to provide the President of UOKiK with the requested information or providing false or misleading information.

<sup>5</sup> Data based on signals reported to UOKiK's headquarters.  
<sup>6</sup> Applies to measures pursuant to Art. 49a of the Act on competition and consumer protection.

<sup>7</sup> Number of proceedings within the framework of which inspections were performed.

DECISIONS ON CASES WITH THE HIGHEST TOTAL AMOUNT OF FINES IMPOSED ON A BUSINESS IN 2021 FOR PRACTICES INFRINGING COLLECTIVE CONSUMER INTERESTS

|                 |  |             |   |                  |
|-----------------|--|-------------|---|------------------|
| DOZIK-3/2021    | Jeronimo Martins Polska S.A.                 | 1 penalty   | for misleading consumers as to the origin of fruits and vegetables                                  | PLN 60.1 million |
| DOZIK-17/2021   | Santander Bank Polska S.A.                   | 2 penalties | for misleading consumers as to the total amount of the loan and the availability of consumer credit | PLN 44.2 million |
| DOZIK-1/2021    | Open Life Towarzystwo Ubezpieczeń Życie S.A. | 3 penalties | for misselling when offering unit-linked insurance (UFK)  | PLN 20 million   |
| OTHER PENALTIES |  |             |   | PLN 25.7 million |

NEARLY PLN 150 MILLION  
IN TOTAL PENALTIES

DECISIONS ON CASES WITH THE HIGHEST TOTAL AMOUNT OF PENALTIES IMPOSED ON A BUSINESS IN 2021 IN RELATION TO THE RECOGNITION OF MODEL CONTRACT CLAUSES AS PROHIBITED

|                 |                                    |             |  |                         |
|-----------------|------------------------------------|-------------|--|-------------------------|
| RKR-7/2021      | Stylhut sp. z o.o. sp. k.          | 6 penalties | for prohibited clauses in developer contracts and contracts for transfer of ownership of flats | PLN 1.5 million         |
| DOZIK-12/2021   | Raiffeisen Bank International AG   | 1 penalty   | for prohibited clauses in appendices to foreign currency loan agreements                       | PLN 945.5 thousand      |
| RKT-2/2021      | Nova Centrum Edukacyjne sp. z o.o. | 9 penalties | for prohibited clauses in contracts relating to education                                      | PLN 355.3 thousand      |
| OTHER PENALTIES |                                    |             |  | nearly PLN 482 thousand |

PLN 3.3 MILLION  
IN TOTAL PENALTIES

## Overview of activities in 2021

### Pyramid-type incentive schemes

Luxinvest sp. z o.o., Quantum sp. z o.o. and Quantum International EN LLC are **yet another three companies recognised by the President of UOKiK as the creators of pyramid-type incentive schemes** (decisions: RKR-8/2021, RKR-9/2021, RKR-10/2021). The companies sold training packages and made profits primarily from persuading other people to buy such packages. The President of the Office ordered that the funds paid be returned to the consumers affected. In the case of Quantum International, the decision also includes an order to immediately cease the ongoing practices. The undertakings did not file an appeal within the legal deadline.

### Promotion of pyramid-type incentive schemes – the activity of the so-called "solicitors"

The President of UOKiK has issued more decisions against solicitors – persons and entities promoting pyramid-type incentive schemes. **Three decisions concerned individuals who were effectively engaged in economic activity** (decisions: RGD-7/2021, RGD-8/2021, RGD-9/2021). The total amount of penalties was PLN 740.6 thousand. One of them related to NTIM sp. z o.o. (RGD-10/2021), which promoted this type of scheme on the rockwall.investments platform. This is also the first decision involving pyramid-type incentive schemes in which financial sanctions were applied to the company's managers. The total amount of sanctions imposed on this company and two of its managers amounted to PLN 272.3 thousand. The undertakings have appealed against this decision.



#### UOKiK's activities

In 2021, the President of UOKiK **for the first time exercised his right to impose a penalty on managers responsible for infringing collective consumer interests**. The financial sanctions covered, among others, managers of entities promoting pyramid-type incentive schemes.

### Investment notes

The case concerns Yanok Mortgage Fund sp. z o.o., against which the President of UOKiK issued a consumer warning in 2020. The company was found to be **handling a promissory note in a manner contrary to its function** and using consumers' money to grant loans to businesses. In addition, it misled consumers with regard to the safety of the promissory note and its profitability. The President of UOKiK imposed a penalty of nearly PLN 400 thousand and ordered the immediate discontinuation of the practice. The company has filed an appeal against the decision (RWR-2/2021). In 2021, the President of the Office brought charges against another entity, BREWE Leasing, that offers investment notes under the name "KWIT-y Dochodowe" (income receipts).

### Alleged social impact bonds

The explanatory proceedings initiated by the President of UOKiK concern the following companies: Obligacje Społeczne Prosta S.A., Krajowy Fundusz Gwarancyjny S.A., Krajowy Fundusz Gwarancyjny Leasing sp. z o.o. and Prius29 Sp. z o.o. According to signals received, **the "social impact bonds" offered by the companies may in fact be investment loans** for the benefit of undertakings. The very names of the companies may be misleading, suggesting links to Krajowy Fundusz Gwarancyjny or social impact bonds. UOKiK is cooperating with the Polish Financial Supervision Authority with regard to this matter. The Office has also sent notices to the public prosecutor's office and the Personal Data Protection Office.

### Consumer credit costs

The President of UOKiK imposed a fine of over PLN 44 million (decision DOZIK-17/2021) on Santander Consumer Bank S.A. The bank **continues to include the cost of the insurance service premium in the total credit amount, disregarding decisions and court judgments issued against other companies in similar cases**. By presenting information about the total amount of the credit, it is misleading consumers as to the proportion between the total amount of the credit and its total cost. The second questioned practice (discontinued by the bank) involved misleading consumers as to the availability of consumer credit offered to them under the terms and conditions set out in individual written proposals to conclude a credit agreement sent to consumers (which were not ultimately granted to all). The bank has appealed against this decision.

### Fees for termination of a revolving credit

The case concerned revolving credit offered by mBank S.A. on promotional terms. The bank reserved the right to charge a commission if the credit limit is renewed after one year. A consumer who wished to avoid such costs and terminated the agreement early was obliged to pay an appropriate fee. The reservations of the President of UOKiK referred to **the charging of fees for the termination of the revolving credit agreement**, as, according to

the law, it can be done at any time without additional costs. The bank abandoned the challenged practice and undertook to refund wrongly charged fees to consumers. The decision (RBG-2/2021) remains legally binding.

### Early repayment of consumer credit

As a result of the intervention of the President of UOKiK, more banks and lending institutions began to correctly settle accounts with consumers who repaid loans and credit early. These include Bank Pocztowy S.A. and Provident Polska S.A. (legally binding decisions: DOZIK-6/2021, RWR-3/2021). The cases concern the linear method for calculating the proportional refund of credit costs indicated by the Office. In 2021, the President of UOKiK issued 5 decisions concerning **irregularities related to early repayment of credit**.



#### UOKiK's activities

In 2021, the President of the Office issued **another 5 decisions concerning irregularities relating to settlements with customers** in cases of early repayment of consumer credit.

### Maximum costs of consumer credit

The President of the Office initiated proceedings against the following lending companies: Szybka Gotówka sp. z o.o., Gwarant24 sp. z o.o. and Centrum Rozwiązań Kredytowych sp. z o.o. They alternately granted refinance loans to consumers to pay off their previous liabilities. Simultaneously, each of those companies charged a commission that was financed, in whole or in part, from the subsequent loan. As a result, the amount to be repaid increased. Such action may constitute **an attempt to evade the provisions on the maximum non-interest**

**costs of consumer credit.** The President of UOKiK made similar allegations against (currently under restructuring): Yes Finance S.A., Liberis Polska sp. z o.o., Duo Finance sp. z o.o. and Primus Finance sp. z o.o.

**Excessive fees for delayed repayment of a loan**

Cash Service 4 Home sp. z o.o., a loan company, charged abnormally high fees for so-called "automatic visits" to the homes of customers who were late with their instalment repayments. **These costs exceeded the limit provided for in the Consumer Credit Act.** The infringements also involved, inter alia, the obligation to provide consumers with reliable and full information on past due debt rates and other overdue fees. The President of UOKiK imposed a fine of over PLN 0.5 million for prohibited practices. The company has filed an appeal against the decision (RŁO-6/2021).

**Lease agreements instead of loan agreements**

The case was reported by consumers who, instead of a loan agreement, unknowingly signed a sale-and-lease-back agreement for household appliances allegedly sold earlier to the company providing the funding. The President of the UOKiK has launched explanatory proceedings to check whether such agreements may constitute **an attempt to evade legal provisions concerning consumer credit**, in the case of which the law limits both the amount of interest charged on loans and their non-interest costs.

**UFK-type insurance – misselling**

The President of UOKiK issued another decision (DOZIK-1/2021) on the unfair sale of unit-linked life insurance (UFK). The penalty imposed on Open Life TU Życie S.A. amounted to nearly PLN 20 million. The insurer offered consumers **contracts containing capital funds that were riskier than the consumers' needs and risk profile assessment indicated**, for a longer period than they wished. The undertaking has filed an appeal against this decision.

**Spread clauses – the end of a series of proceedings**

The decision issued by the President of UOKiK against Raiffeisen Bank International AG (DOZIK-12/2021) concludes a series of proceedings concerning the so-called spread clauses. Between 2018 and 2021, the President of the Office issued a total of 9 decisions on the issue, accusing banks of **imprecise and ambiguous rules for calculating the amount of exchange rates** in model mortgage loan agreements relating to foreign currencies. In the case of Raiffeisen Bank, the penalty amounted to over PLN 945 thousand. The bank has appealed against this decision.



**UOKiK's activities**

Between 2018 and 2021, the President of UOKiK issued **9 decisions in cases involving the so-called spread clauses.**

**Unauthorised bank transactions**

UOKiK has received complaints from consumers concerning theft of money from their bank accounts or incurring liabilities using their personal data. The cases concern, for example, fraudsters impersonating bank employees or installing spyware. In 2021, the President of the Office initiated explanatory proceedings against 18 banks to verify **the manner in which they handle consumer complaints related to the theft of money from their accounts** and what transaction authentication mechanisms they use.

Visit [finanse.uokik.gov.pl](https://finanse.uokik.gov.pl) – it's a compendium of UOKiK news on financial issues.

**Health insurance – changes without consumers' consent**

The President of UOKiK has initiated proceedings against Compensa Towarzystwo Ubezpieczeń na Życie S.A. The company sent customers offers to extend their insurance coverage, which resulted in higher premiums. Simultaneously, customers who did not consent to such a solution were required to notify the insurer. Otherwise, the new premium was automatically charged, despite the lack of explicit consent from consumers, which may constitute an **unauthorised unilateral change to the terms and conditions of the contract.**

**Product labelling – country of origin**

The President of UOKiK imposed financial penalties on the owners of the Biedronka and Kaufland chains for **misinforming consumers about the country of origin of fruits and vegetables.** The decisions (DOZIK-3/2021, DOZIK-15/2021) result from a series of inspections conducted by the Trade Inspection in 2020, which revealed numerous irregularities in this respect and the lack of effective corrective actions. In the case of Jeronimo Martins Polska S.A., the penalty amounted to over PLN 60 million and represented the highest fine imposed for practices violating collective consumer interests in 2021. The sanction against Kaufland Sp. z o.o. amounted to PLN 13.2 million. Both companies have appealed against the decisions.



**UOKiK's activities**

The highest penalty imposed on an undertaking for practices infringing collective consumer interests in 2021 – **over PLN 60 million.**

**Falsification of the material composition of clothing**

In 2019-2020, the Trade Inspection carried out inspections of men's formal wear. Based on the results of inspections and laboratory tests, **the President of UOKiK initiated proceedings against 3 undertakings**, whose clothes had the most significant discrepancies between the information on the label and the actual composition of clothes. For instance, a significantly lower proportion of cotton or wool was found in relation to the declared composition.

**Terms and conditions of special offers**

The case concerned promotional campaigns organised by the Biedronka chain, under which it was possible to obtain, among other things, a discount voucher for purchases or to buy three products for the price of two. The owner of Biedronka published terms and conditions of special offers with delays. In addition, the company **did not accept complaints which were considered after the statutory deadline**, although in such situations, the customer's claim should have been automatically accepted. As a result of the decision (RBG-1/2021) of the President of UOKiK, Jeronimo Martins Polska S.A. conducted an educational campaign for consumers, as part of which they received vouchers for purchases in Biedronka amounting to a total of PLN 7.5 million. The decision is legally binding and has been executed.

**Premium text messages**

The proceedings were initiated in response to complaints submitted by customers of the Plus network, who indicated irregularities related to the activation of paid subscriptions using premium numbers ("Czat Towarzyski" and "Subskrypcje Premium MT" services). The reservations of the President of UOKiK were aroused by **the method of providing premium services without due diligence** by Polkomtel sp. z o.o. and the manner of responding to subscribers' complaints. The President of UOKiK obliged the operator (decision DOZIK-2/2021) to pay compensation to the affected customers and, among other things, to introduce changes in the manner in



which premium services are launched and provided, as well as to monitor and eliminate any irregularities that arise. The decision is legally binding.

Flash messages and direct billing

The case concerned irregularities in the activation of paid non-telecom services provided by the Orange network operator, as well as subscription services offered by other entities for subscribers of that network (settled by the operator using a direct billing service). Consumers often unknowingly activated the services, for example by clicking on the "OK" button in a flash message notification or a link on a website. In the decision issued, the President of UOKiK obliged Orange Polska S.A. (DOZIK-13/2021) to financially compensate consumers for the loss and cease the use of flash messages, among other things. Moreover, the operator was to positively consider consumer complaints in cases involving misleading at the stage of the activation of paid services. It will change the way it responds to complaints related to adding charges for services provided by third parties to the bill. The decision is legally binding. In 2021, analogous proceedings were also initiated against another network operator, T-Mobile.

Sales calls and additional services

The President of UOKiK has accused more mobile operators of charging fees for the activation of additional services without obtaining the explicit consent of consumers. The allegations concern Orange Polska S.A. and P4 sp. z o.o. (Play network operator), whose consultants did not inform customers about the costs of additional services during their conversations. In the case of analogous proceedings concerning Polkomtel and T-mobile, the previous decisions of the President of UOKiK were upheld by the courts in 2021 (Administrative Court and Court of Competition and Consumer Protection).

Change to the terms and conditions of a telecommunications contract

The President of UOKiK has initiated proceedings against Vectra sp. z o.o. The operator unilaterally introduced a clause into existing contracts, which allowed annual increases in subscription fees. However, the contracts did not contain any provisions permitting such action (the so-called modification clauses). The President of the Office requested Vectra to abandon the planned change already at the stage of the explanatory proceedings. Despite this, the company increased the amount of the subscription based on the introduced clause.

Sale of gas and electricity in consumers' homes

For many years, unfair practices related to the sale of gas and electricity in consumers' homes have been the subject of rulings issued by the President of UOKiK. A frequently occurring infringement consisted in impersonating the current operator, misrepresenting the amount of the bill or inhibiting the withdrawal from the contract. In this regard, in 2021, the President of the Office issued, among other things, a decision against Fortum Marketing Sales Polska S.A. (DOZIK-4/2021), accepting the undertaking's obligation to pay compensation to affected customers. The company ceased to conclude contracts in consumers' homes already during the proceedings. The decision is legally binding.



Legal changes

As of 3 July 2021, it is forbidden to conclude contracts for electricity and gas outside company's business premises. All electricity and gas contracts signed at consumers' homes after that date will be void under the law<sup>8</sup>.

Sale of telecommunication services in consumers' homes

The President of UOKiK imposed a fine of nearly 8 million on the operator TeleGo sp. z o.o. (decision DOZIK-11/2021). When visiting consumers' homes, the company's representatives pretended to work for the current operator and indicated that the documents presented for signature related to changes to the terms and conditions of the existing contract. They also did not provide consumers with contract documents, including contract withdrawal forms. The President of the Office ordered TeleGo to immediate cease the questioned practices, which mainly affected senior citizens. The company has filed an appeal against the decision.

Presentation of reviews by Internet platforms

The case concerns two websites, Ceneo.pl and Opineo.pl, which present consumer reviews on sellers and products. Objections have been raised with regard to the concealment of certain reviews and negative ratings of online shops, as well as the presentation of incomplete statistics in this respect. Negative reviews were not displayed, for example, when a dispute with the seller was resolved

and the consumer withdrew their review. In the opinion of the Office, the websites should present the number of withdrawn reviews since the change may result from the transfer of some form of gratification to the consumer (e.g. a voucher, discount). In response to the request of the President of UOKiK, the companies undertook to change their practices.

Surreptitious advertising on social media of influencers

Commercial content presented by influencers on social media (e.g. Facebook or YouTube) should be marked as advertisements or sponsored. The President of UOKiK initiated explanatory proceedings to verify whether this was indeed the case. At that time, many creators began to mark their materials correctly. The President of the Office initiated 4 proceedings to impose a penalty on influencers who did not provide relevant information in connection with the explanatory proceedings.



<sup>8</sup> The Act of 20 May 2021 amending acts (Dz. U. / Journal of Laws/ of 2021, the Act on Energy Law and some other item 1093).



### Promotion of the so-called scam on social media

The President of UOKiK has commenced explanatory proceedings concerning **the promotion of scam, i.e. fraud, on social media**. The scam consists, among other things, in informing consumers about non-existent special offers, wrongly exaggerating the properties of the advertised product or offering products that are harmful to health. The Office will analyse whether influencers verify offers of commercial cooperation and how they behave when irregularities are detected. The proceedings are also set to examine how social media platforms enable the flagging of sponsored content and whether this affects the reach of those who do it properly.

### Sale of clothes on online platforms

The President of UOKiK has initiated proceedings against Vinted UAB, a company that runs an online platform (application) for selling clothes. The first allegation concerns a failure to inform consumers of additional requirements to provide certain information and personal identification documents, **which can hinder the receipt of money** from the sale of items on the platform. The second issue is related to the so-called Buyer Protection – an extra paid service, which is set on the website by default. Consumers may not be aware of the possibility to buy products without protection (e.g. in the case of sellers they have verified), as the selection of an alternative option is neither intuitive nor precisely described in the terms and conditions.

### Applications for ordering food

UOKiK received consumer complaints regarding irregularities in ordering food and groceries via Glovo and Uber Eats applications. Consumers indicated, for example, that they **paid a higher price than the one they were informed about before placing the order**. The complaints also related to problems with the way businesses billed for unfulfilled orders. In 2021, the President of the Office initiated proceedings against Glovo for practices infringing collective consumer interests. In the case of UberEats, explanatory proceedings are underway.

### Rules of operation of parcel lockers

As a result of the intervention of the President of UOKiK, the owner of InPost parcel lockers has changed the rules of collecting and sending parcels. The reservations of the President of UOKiK concerned, inter alia, **additional fees for the verification of incorrect sizes of parcels** or their redirection to another parcel locker when the target one was overfilled without the consumer's consent. In the course of the explanatory proceedings, InPost sp. z o.o. has committed to applying relevant changes, some of which have already been implemented in 2021.

### Internet payments

The President of the Office has launched explanatory proceedings to determine whether PayPal, a payment service, uses prohibited contract clauses, including regarding unilateral amendment of contract terms and conditions, as well as the possibility to limit access to services. In particular, UOKiK will check whether contractual provisions are formulated in an unambiguous and clear manner, and whether they allow PayPal to be **arbitrary in the application of sanctions in the form of limiting and blocking access to services**.

### Video on demand services

The Office of Competition and Consumer Protection received signals about **irregularities related to access to films, music and entertainment programmes** offered by Fame MMA, Tidal, TVN (Player.pl service) and UPC Polska (UPC on demand). For instance, consumers could not watch a gala live due to technical issues or were informed about a special VOD movie collection without a clear indication that it was a paid service. As a result of the intervention of the President of UOKiK, the companies removed the irregularities and compensated the consumers.

### Hidden subscription instead of one-time service

The case revolves around Logo-Sharing electric scooters available for rent in several Polish cities. The affected **consumers were unaware that by paying for a single ride, they were, in fact, agreeing to a paid, long-term subscription**, and money was automatically taken from their accounts. The President of the UOKiK has launched proceedings against the former and current scooter operator. The Office notified the public prosecutor's office of the actions of Logo-Sharing sp. z o.o. and Logo-Sharing Group LLC, as well as mobile application shops, such as AppStore, AppGallery and Google Play.

### Sales at trade shows

The President of UOKiK imposed nearly PLN 280 thousand in total penalties on Millenium Medica sp. z o.o. (decisions RŁO-2/2021, RŁO-3/2021). The company invited consumers to a meeting **under the pretence of a free health check, disguising the main selling point of the show**. Consumers were also misled about the state of their health, as the examinations were carried out using a pulse oximeter, which had been withdrawn from the market. Apart from the financial penalty, the President of the Office ordered the company to immediately cease prohibited practices. An additional penalty was imposed on the company in separate proceedings due to the provision of false and misleading information during the explanatory proceedings. The company has appealed both decisions.



### Legal changes

In 2021, the President of UOKiK prepared a **proposal of regulations changing the rules of sales at trade shows**. The introduced solutions should eliminate a significant part of unfair practices. More information can be found in part 3.2 – Drafting of legal regulations.

### Trade shows – prohibited contractual clauses

The Office received numerous complaints against Geriamedica sp. z o.o., which sold medical packages at meetings with consumers for as much as PLN 14.2 thousand. The President of UOKiK imposed a financial penalty of PLN 138.4 thousand on the company **for prohibited contractual clauses**. The company reserved the right to change the list of establishments, but consumers could not cancel its services without incurring costs. Furthermore, the President of the Office imposed a financial penalty in the amount of PLN 46.1 thousand for lack of cooperation during the proceedings. The decisions (RLU-1/2021 and RLU-2/2021) are legally binding. The President of the Office also notified the relevant public prosecutor's office about the case, indicating that the members of the company's management board might have breached their financial reporting obligations.

Visit [konsument.edu.pl](https://konsument.edu.pl) – it's a simulator of traps lurking for consumers online.

Trade shows – the first penalty for a manager

In 2021, the President of UOKiK used his power to impose a penalty on a manager responsible for bringing about violations of consumer rights for the first time. The case involved unfair trade shows and misleading consumers during the promotion of such events. A member of a single-person management board of Magforte sp. z o.o. was fined PLN 250 thousand (decision RPZ-10/2021). **The manager directly supervised the manner in which the shows were promoted and conducted.** In total, the penalty imposed on the company amounted to over PLN 433 thousand (decisions RPZ-10/2021, RPZ-9/2021). In both cases, the decisions were appealed. In addition, UOKiK notified the public prosecutor's office of a suspected crime committed by the company's sales representatives.



UOKiK's activities

In connection with the use of practices violating collective consumer interests, the President of UOKiK imposed **8 penalties on managers for a total amount of PLN 550 thousand.**

Parking space fees

The case concerned car parks located at Aldi and Biedronka shops, which were managed by TD System sp. z o.o. The company charged additional fees in the case of a failure to display a parking ticket behind the windscreen, which entitled the customer to park for free during a certain period of time. The fees were not cancelled even if consumers were able to prove that they had a ticket during the complaint procedure. **By refusing to accept legitimate complaints,** the company violated consumer collective interests. The penalty imposed on the business amounted to over PLN 150 thousand (decision RKT-3/2021). The President of the Office also punished an undertaking managing a car park next to an oncological hospital in Wrocław for using misleading banners informing about free parking spaces (decision RWR 04/2021). In both cases, the companies appealed against the decision.

Education – prohibited contractual clauses

The President of UOKiK found several abusive clauses used by Nova Centrum Edukacyjne sp. z o.o. to be prohibited. The company operates private post-secondary and primary schools, as well as non-school forms of education. The disputed provisions concern, among other things, **the principles of payment of tuition, termination of the contract and the possibility of transferring a student to another class.** The President of UOKiK has imposed a penalty amounting to a total of over PLN 355 thousand on the company and has prohibited the use of the contested clauses as well. The company appealed against the decision (RKT-2/2021).

2.2  
SUPERVISION OVER  
THE TRADE INSPECTION

The Trade Inspection is a specialised inspection authority protecting consumer interests and rights. The Trade Inspection's tasks are carried out by the President of UOKiK and voivodeship inspectors of Trade Inspection, who conduct inspections and issue relevant decisions. The President of the Office **determines the directions of controls and monitors their execution.** He also carries out **appeal proceedings** against the decisions of voivodeship inspectors<sup>9</sup>.

Activities of national importance are reflected in the **annual control plan of the Trade Inspection.** They are determined primarily based on the irregularities detected in previous years, their significance, and the prevalence of the product category. Inspectors also perform **unscheduled** controls resulting from complaints and information received from, for example, consumers or

state administration bodies. The inspections include **laboratory tests** performed both by UOKiK laboratories (chapter 2.4) and external laboratories.

**The Trade Inspection performs its activities in the area of:**

- controls in the field of non-food products, as well as services and obligations of undertakings,
- regarding general safety of products and the assessment of their compliance with requirements controls,
- controls of fuels and solid fuels within the system monitoring and controlling their quality.

<sup>9</sup> The Act of 15 December 2000 on Trade Inspection (Dz. U. / Journal of Laws of 2020, item 1706).



TRADE INSPECTION CONTROLS IN 2021

13,823

CONTROLS IN THE AREA  
OF NON-FOOD PRODUCTS, AS WELL  
AS SERVICES AND OBLIGATIONS OF  
UNDERTAKINGS

573

CONTROLS REGARDING GENERAL  
SAFETY OF PRODUCTS

1,260

CONTROLS ASSESSING  
COMPLIANCE WITH THE  
REQUIREMENTS

1,845

CONTROLS OF THE QUALITY  
OF FUELS

487

CONTROLS OF THE QUALITY  
OF SOLID FUELS

940

CONTROLS OF SOLID FUEL  
QUALITY CERTIFICATES



DECISIONS OF THE PRESIDENT OF UOKIK ISSUED IN 2021  
IN RELATION TO CONTROLS OF THE TRADE INSPECTION

162

DECISIONS ON APPEALS AGAINST  
DECISIONS OF VOIVODSHIP  
INSPECTORS

121

OTHER DECISIONS<sup>10</sup>

ACTIONS OF VOIVODESHIP INSPECTORS OF THE TRADE INSPECTION  
IN 2021 BASED ON CONDUCTED CONTROLS - EXAMPLES

|   |  |
|---|--|
| NUMBER OF DECISIONS   | 2,747  |
| NUMBER OF REQUESTS FOR RECTIFICATION OF IRREGULARITIES ISSUED TO UNDERTAKINGS | 1,516  |
| NUMBER OF NOTICES SUBMITTED TO LAW ENFORCEMENT AGENCIES                       | 181  |
| NUMBER OF FINES   | 1,410 fines amounting to PLN 254,990                                     |
| NUMBER OF MOTIONS FILED TO COURTS TO PENALISE THE OFFENDERS                   | 260 motions resulting in the imposition of fines amounting to PLN 44,490 |
| NUMBER OF CASES FORWARDED TO OTHER COMPETENT AUTHORITIES                      | 1,161  |

<sup>10</sup> Including obliging undertakings to pay the costs of laboratory tests performed on fuels and solid fuels that do not meet the requirements of the law or declarations. As of 23 September 2021, these decisions are issued by voivodeship inspectors of the Trade Inspection.

CONTROLS IN THE FIELD OF NON-FOOD PRODUCTS, AS WELL AS SERVICES AND OBLIGATIONS OF UNDERTAKINGS

CONDUCTED CONTROLS BY TYPE IN 2021

|  |       |
|--|-------|
| scheduled controls conducted by UOKiK  | 9,126 |
| scheduled controls conducted by voivodeship inspectors of the Trade Inspection | 2,329 |
| unscheduled controls   | 2,368 |

RESULTS OF CONTROLS IN 2021

|                            |         |
|----------------------------|---------|
| controls                   | 13,823  |
| controlled product batches | 599,633 |
| contested product batches  | 9,744   |

Examples of inspections

Ensuring the visibility of prices of goods and services

In the first half of 2021, the Trade Inspection examined whether enterprises have been displaying the prices of goods and services correctly. Inspectors checked 1,530 entities and over 280 thousand batches of products. Objections were raised with respect to 14 percent of the controlled products. In 1,022 stores, inspectors also compared the consistency of prices listed on the shelf with those encoded in the cash register. Higher prices on the bill were observed for nearly 5 percent of the products controlled. Voivodeship inspectors issued 443 decisions to penalise enterprises with fines in the total amount exceeding PLN 295 thousand. Further violations in this area were penalised with fines in the amount exceeding PLN 57 thousand (6 decisions).

Quality and labelling of children's clothing

In 2021, The Trade Inspection checked the labelling and quality of clothing for small children. In total, it audited 117 enterprises and 733 products. Differences between the actual and declared composition were detected in the case of nearly 40 percent of the inspected products. The inspectors raised objections with regard to 8.1 percent of clothing labels, for example, due to incorrect naming of fibres. The Trade Inspection issued a total of 22 decisions obliging enterprises to refund the costs of tests amounting to nearly PLN 22 thousand.

EXAMPLES OF CONTROL TOPICS

|  |
|--|
| correctness of reporting information on prices of goods and services by traders      |
| reliability and legality of recreation service providers                             |
| outwear – quality and labelling  |
| shoes, clothing, and textile goods – with respect to formaldehyde content            |
| paints and varnishes – with regard to their VOC (volatile organic compounds) content |

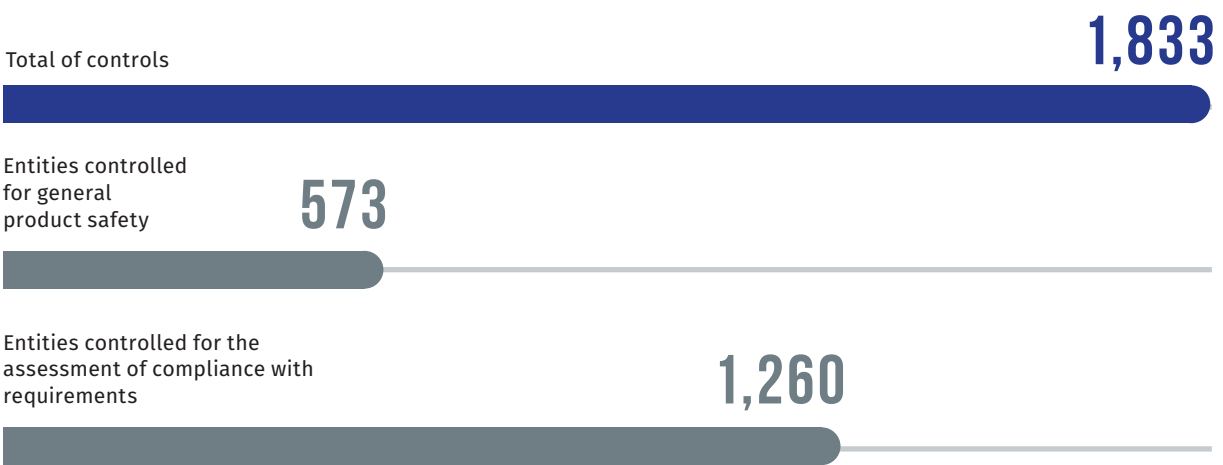
CONTROLS REGARDING GENERAL SAFETY OF PRODUCTS AND THE ASSESSMENT OF THEIR COMPLIANCE WITH REQUIREMENTS

CONDUCTED CONTROLS BY TYPE IN 2021

| TYPE   | NUMBER OF GENERAL PRODUCT SAFETY CONTROLS | NUMBER OF CONTROLS ASSESSING COMPLIANCE WITH REQUIREMENTS |
|--|---|---|
| scheduled controls conducted by UOKiK  | 347                                       | 645   |
| scheduled controls conducted by voivodeship inspectors of the Trade Inspection | 120                                       | 301   |
| unscheduled controls   | 106                                       | 314   |



CONTROLLED ENTITIES BY EXTENT OF CONTROL



RESULTS OF CONTROLS IN 2021

| GENERAL PRODUCT SAFETY CONTROLS                   |       |
|---|-------|
| controls  | 573   |
| controlled batches of products                    | 1,569 |
| batches of products questioned for product safety | 532   |
| CONTROLS FOR COMPLIANCE WITH REQUIREMENTS         |       |
| controls  | 1,260 |
| types of products controlled                      | 2,446 |
| products questioned (irregularities found)        | 887   |

LABORATORY TESTS IN 2021

| LABORATORY TESTS FOR GENERAL PRODUCT SAFETY      |                               | LABORATORY TESTS FOR THE ASSESSMENT OF COMPLIANCE WITH REQUIREMENTS |                               |
|--|-------------------------------|---|-------------------------------|
| number of product batches tested in laboratories | number of products questioned | number of products tested in laboratories                           | number of products questioned |
| 102  | 53                            | 733   | 225                           |

Examples of controls

Safety of toys – border controls

The Trade Inspection in cooperation with the National Revenue Administration checked the safety of toys imported from outside the EU (Q1 2021). The aim of the project was to prevent the marketing of products that pose a chemical risk to children. A total of 316 000 toys were controlled, with 36% failing to meet safety requirements. As part of the project, the Trade Inspection issued 83 opinions to customs authorities, including 70 negative opinions for toys that did not meet chemical or formal requirements.

Carbon monoxide detectors

In Q4 2020 and Q3 2021, the Trade Inspection controlled the safety of carbon monoxide detectors. 167 detector models from 84 undertakings were controlled. 42 models were questioned, with the greatest number of irregularities relating to labelling and instructions for use. Sixteen models of detectors were tested in a specialist laboratory – in one case, the detector was found not to activate when carbon monoxide leaked. The control resulted in 12 post-control statements and one administrative proceeding. The recalled products and products in stock were disposed of.

EXAMPLES OF CONTROL TOPICS

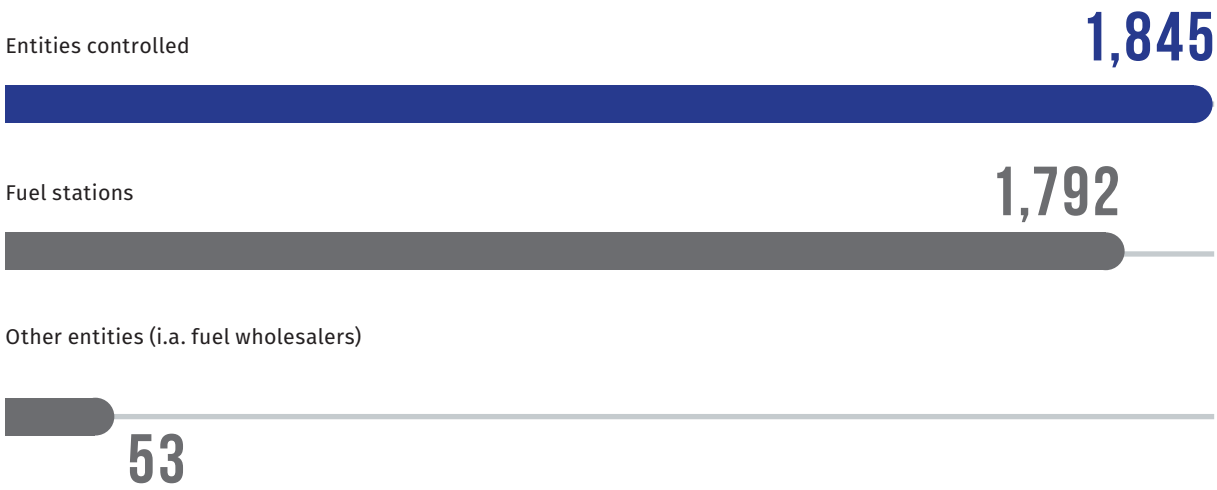
|   |
|---|
| chemical safety of toys                                       |
| solid fuel boilers as well as liquid and gaseous fuel boilers |
| energy labels   |
| baby bike seats   |
| carbon monoxide detectors                                     |

FUEL AND SOLID FUEL QUALITY MONITORING AND CONTROL SYSTEM

The President of UOKiK manages a fuel quality monitoring and control system, one of the aims of which is to eliminate fuels failing to meet quality requirements from the market. The results of controls are used in administrative proceedings conducted by voivodeship inspectors of the Trade Inspections, the President of UOKiK and the President of the Energy Regulatory Office (ERO) alike – in accordance with their respective competencies. Fuel controls are carried out in two ways. The first type of control 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. Here, 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, controls 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 CONTROLS IN 2021



| FUEL TYPE                        | NUMBER OF CONTROLS | NUMBER OF SAMPLES TESTED | NUMBER OF SAMPLES NOT MEETING THE QUALITY REQUIREMENTS |
|----------------------------------|--------------------|--------------------------|--|
| liquid fuels (diesel and petrol) | 1,497              | 1,566                    | 27   |
| LPG                              | 345                | 345                      | 1  |
| light fuel oil controls          | 3                  | 3                        | 0  |
| TOTAL                            | 1,845              | 1,914                    | 28   |

CONTROL RESULTS BY FUEL TYPE AND CONTROL

| FUEL TYPE      | CONTROLS BASED ON RANDOM SELECTION |  | CONTROLS BASED ON INFORMATION RECEIVED |  |
|----------------|------------------------------------|--|--|--|
|                | NUMBER OF SAMPLES TESTED           | NUMBER OF SAMPLES NOT MEETING THE QUALITY REQUIREMENTS | NUMBER OF SAMPLES TESTED               | NUMBER OF SAMPLES NOT MEETING THE QUALITY REQUIREMENTS |
| diesel oil     | 445                                | 4  | 335                                    | 18   |
| petrol         | 599                                | 2  | 187                                    | 3  |
| LPG            | 308                                | 1  | 37                                     | 0  |
| light fuel oil | 3                                  | 0  | 0                                      | 0  |

SOLID FUEL CONTROLS IN 2021

|   |     |
|---|-----|
| SOLID FUEL QUALITY CONTROLS, INCLUDING:   | 487 |
| samples tested for compliance with the requirements set out in the Regulation on requirements for solid fuels | 489 |
| samples not complying with these requirements   | 34  |
| samples tested with respect to the declarations included in the quality certificates                          | 489 |
| samples not complying with the declarations   | 67  |
| CONTROLS CONCERNING QUALITY CERTIFICATES:   | 940 |
| undertakings did not issue copies of certificates and did not provide them to consumers                       | 52  |

OTHER MEASURES TAKEN IN 2021

551

INFORMATION RECEIVED  
BY UOKIK ON POOR QUALITY  
FUELS

76

INFORMATION RECEIVED  
BY UOKIK ON POOR QUALITY  
SOLID FUELS

50

NOTIFICATIONS SUBMITTED BY  
VOIVODESHIP INSPECTORS OF  
THE TRADE INSPECTION TO THE  
PUBLIC PROSECUTOR'S OFFICE  
ON SUSPICION OF COMMITTING  
A CRIME

23

INFORMATION SENT BY UOKIK TO THE  
ENERGY REGULATORY OFFICE

– concerns fuel stations which violated the  
conditions of concessions granted for trading in  
liquid fuels and provisions of the Energy Law

## 2.3

# PRODUCT SAFETY AND MARKET SURVEILLANCE

The President of UOKiK exercises general safety supervision of consumer products<sup>11</sup>. The President conducts proceedings to **eliminate threats to human health and life**. Products deemed by the President of the Office not to meet safety requirements are entered in the **register of dangerous products**. The Office acts as the national contact point for the EU Safety Gate /RAPEX system<sup>12</sup>, for the rapid exchange of information between the EU Member States and the European Commission on risks posed by non-food products. UOKiK also analyses notifications from undertakings on dangerous products and monitors the implementation of corrective measures.

The President of the Office monitors the functioning of the market surveillance system in Poland<sup>13</sup> in terms of compliance of products with the requirements of EU harmonised legislation. 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 mandatory**<sup>14</sup>. UOKiK is also responsible for the national contact point for the ICSMS system<sup>15</sup>, 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 since 16 July 2021.

As part of the proceedings, the President of UOKiK may impose a fine or certain obligations on a manufacturer or distributor, including the obligation to withdraw products from the market. In practice, many entities still take voluntary action to remedy non-compliance during the course of the proceeding. The Office's activities are related to controls conducted by the Trade Inspection in the area of general product safety and the EU market surveillance system.

<sup>11</sup> Supervision is exercised in accordance with the Act of 12 December 2003 on general product safety (Dz. U. /Journal of Laws / of 2021, item 1344) and the Act of 13 April 2016 on conformity assessment and market surveillance systems (Dz.U. / Journal of Laws / of 2022, item 5).

<sup>12</sup> "Safety Gate: the EU rapid alert system for dangerous non-food products".

<sup>13</sup> Supervision is exercised in accordance with the Act of 30 August 2002 on

the conformity assessment system (Dz. U. /Journal of Laws / of 2021, item 1344) and the Act of 13 April 2016 on conformity assessment and market surveillance systems (Dz.U. / Journal of Laws / of 2022, item 5).

<sup>14</sup> The CE mark is the manufacturer's declaration that the product placed on the market complies with the harmonised requirements set out in the acts of EU harmonised legislation. CE marking applies only to certain categories of products - including electrical appliances (including electronics and

household appliances).

<sup>15</sup> "Information and Communication System on Market Surveillance".

### MARKET SURVEILLANCE ACTIVITIES OF THE PRESIDENT OF UOKiK IN 2021

|   | GENERAL PRODUCT SAFETY | COMPLIANCE WITH REQUIREMENTS<br>- MARKET SURVEILLANCE |
|---|------------------------|---|
| EXPLANATORY ACTIONS TAKEN   | 68                     | 64  |
| NEW PROCEEDINGS   | 46                     | 198   |
| DECISIONS ISSUED, INCLUDED: <sup>16</sup>   | 42                     | 234   |
| dismissal of a case as a result of remedial actions taken by the trader and elimination of the risk | 40                     | 185   |
| decisions imposing certain obligations  | 2                      | 10  |
| decisions imposing financial penalties  | 15                     | 15  |
| DECISIONS ON REQUESTS FOR RECONSIDERATION   | 6                      | 8   |

### COMPLAINTS AND ENQUIRIES IN 2021

173

MARKET COMPLAINTS  
HANDLED

i.a. from consumers  
and undertakings

166

ENQUIRIES  
ANSWERED

<sup>16</sup> Examples of decision types are provided; therefore, the data do not add up to the total number of deci-

sions issued. Under the Act on General Product Safety, it is possible to issue various rulings, often combining differ-

ent categories - e.g. decisions discontinuing the proceedings and imposing a penalty or discontinuance alone,

decisions imposing obligations with or without a financial penalty, decisions imposing a penalty only.

GENERAL PRODUCT SAFETY ACTIVITIES IN 2021

326

VOLUNTARY NOTIFICATIONS

from undertakings on  
dangerous products (most  
relating to motor vehicles)

1

PRODUCT LISTED IN THE  
REGISTER OF DANGEROUS  
PRODUCTS

PRODUCTS WITH REGARD  
TO WHICH ACTIONS WERE  
MOST FREQUENTLY TAKEN

prams

baby bike seats

carbon monoxide  
detectors

EFFECTIVENESS OF UOKIK ACTIONS

IN TOTAL

16 warnings

2,150 products withdrawn from the market

4,934 products in which risks were  
eliminated (destroyed or returned to the  
supplier)

EXAMPLE – PRAMS

3 warnings

688 products withdrawn from the market

2,759 products destroyed

SAFETY GATE/RAPEX SYSTEM

158

UOKIK NOTIFICATIONS

concerning more than  
1.9 million products

2,078

NOTIFICATIONS BY EU  
MEMBER STATES,

of which 128 concerned products  
manufactured or imported by Polish  
undertakings

THE MOST FREQUENTLY NOTIFIED PRODUCTS UNDER THE SAFETY GATE/RAPEX SYSTEM

| NOTIFICATIONS FROM POLAND         |     | EU NOTIFICATIONS IN TOTAL         |     |
|-----------------------------------|-----|-----------------------------------|-----|
| toys                              | 103 | vehicles                          | 553 |
| vehicles                          | 22  | toys                              | 431 |
| electrical and lighting equipment | 17  | electrical and lighting equipment | 279 |

ICSMS

20

REACTIONS OF UOKIK TO  
NOTIFICATIONS FROM OTHER  
COUNTRIES IN THE ICSMS SYSTEM

131

PRODUCTS REPORTED BY EU  
MEMBER STATES



ACTIVITIES RELATING TO THE COMPLIANCE OF PRODUCTS WITH EU REQUIREMENTS IN 2021

50

PRODUCTS ENTERED IN THE  
REGISTER OF NON-CONFORMING  
PRODUCTS OR OF HAZARDOUS  
PRODUCTS

22 products removed due to fulfilment of  
statutory requirements

PRODUCTS WITH REGARD TO WHICH ACTIONS  
WERE MOST FREQUENTLY TAKEN

|                               |
|-------------------------------|
| toys                          |
| electrical equipment          |
| personal protective equipment |

EFFECTIVENESS OF UOKiK ACTIONS

IN TOTAL

173 notifications of non-conformities

151,712 products (pcs) withdrawn from  
the market

40,419 products in which non-conformities  
were removed

EXAMPLE - TOYS

120 notifications of non-conformities

90,913 products (pcs) withdrawn from the market

2,015 products in which non-conformities were removed

INFORMATION ON NON-COMPLIANT PRODUCTS

18

NOTIFICATIONS FORWARDED BY UOKiK  
TO MARKET SURVEILLANCE AUTHORITIES

concerns products that may not meet the  
requirements

131

PRODUCTS NOTIFIED BY  
EU MEMBER STATES

2.4  
LABORATORIES

UOKiK manages three laboratories performing tests on liquid fuels, toys, textile products and other non-food items. The tests are conducted primarily in connection with control activities of the Trade Inspection and serve to eliminate products that do not meet requirements or pose a threat to consumers from the market. In addition, UOKiK laboratories perform tests of selected products within the framework of an educational cycle "UOKiK testing" (more information: 3.3 Information and educational activities). The laboratories are continuously developing their scope of accreditation and implementing new testing methods.

Laboratory development in 2021

- extension of the scope of accreditation by 23 test methods
- implementation of 36 new test methods
- participation in 11 proficiency testing and inter-laboratory comparison programmes

UOKiK LABORATORY TESTS CONDUCTED FOR THE TRADE INSPECTION IN 2021

1,777

SAMPLES TESTED

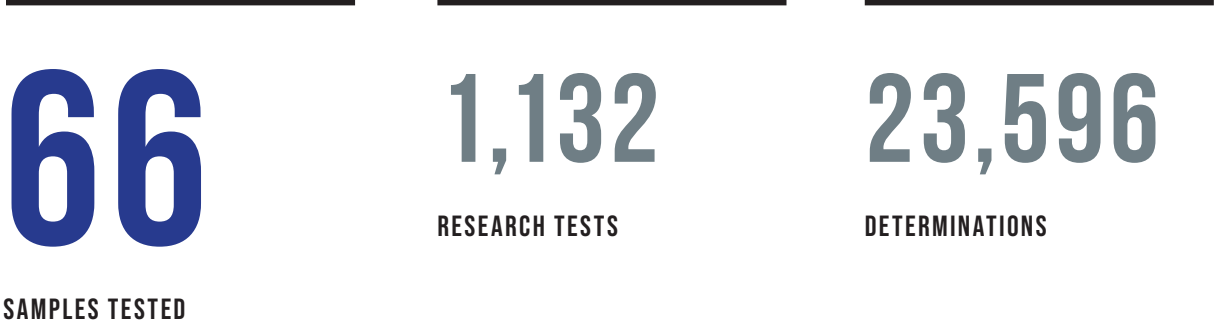
22,958

PARAMETERS DETERMINED  
FOR THE SAMPLES TESTED

EXAMPLES BY PRODUCT CATEGORY

| PRODUCT     | NUMBER OF SAMPLES TESTED | % NON-COMPLIANT SAMPLES |
|-------------|--------------------------|-------------------------|
| toys        | 510                      | 24                      |
| textiles    | 360                      | 36                      |
| petrols     | 303                      | 5                       |
| diesel oils | 300                      | 5                       |
| footwear    | 134                      | 1                       |

UOKIK LABORATORY TESTS UNDER THE "UOKIK TESTING" INITIATIVE IN 2021



## 2.5 OUT-OF-COURT DISPUTE RESOLUTION SYSTEM

The President of UOKiK supervises the system of out-of-court dispute resolution in Poland (ADR – Alternative Dispute Resolution). It is made up of institutions conducting **amicable proceedings between consumers and undertakings** on matters falling within their competence. Matters for which no sector-specific entity has been established are dealt with by the Trade Inspection, which acts as a horizontal institution. The President of UOKiK conducts proceedings concerning entry into the register of ADR entities. In addition, he monitors the implementation of statutory obligations by authorised entities, inter alia, on the basis of annual reports. The Office runs an **ADR/ODR Contact Point**, which provides information on amicable proceedings and geoblocking as well as assists in filling in applications. ODR is a European platform for resolving disputes between consumers and undertakings which enables the filing of complaints about goods or services bought online, both domestically and in all EU countries, Liechtenstein and Norway.

ADR entities in Poland in 2021

10 authorised entities:<sup>17</sup>

- 7 operating at or forming part of public authorities
- 3 established by undertakings from a given industry

Public sector entities

- **financial and insurance services**: Financial Ombudsman, Arbitration Court at the Financial Supervision Commission
- **telecommunications and postal services**: President of the Office of Electronic Communications
- **energy services**: Coordinator for negotiations to the President of the Energy Regulatory Office

<sup>17</sup> As at 31 December 2021. In 2021, The President of UOKiK issued 1 decision concerning the ADR system (deletion from the register at the request of an ADR entity).



- **rail transport services:** Rail Passenger Ombudsman to the President of the Railway Transport Office
- **air transport services:** Ombudsman to the President of the Civil Aviation Authority

Non-public sector entities

- **services offered by banks:** Bank Arbiter at the Polish Bank Association
- **sale of food products:** Centre for Amicable Resolution of Food Disputes at the Polish Federation of Food Industry
- **contractual services with companies 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, the First Electronic Arbitration Court at the Association of Notaries of the Republic of Poland in Warsaw

Horizontal entity

- **sale of goods and services in matters not covered by other specialised entities,** e.g. related to tourism, property development, education, renovation and construction: Trade Inspection



ADR/ODR CONTACT POINT

1,147

PIECES OF ADVICE GIVEN TO CONSUMERS AND BUSINESSES,  
INCLUDING:

114

CONCERNING NOTIFICATIONS  
SUBMITTED THROUGH THE ODR  
PLATFORM

636

CONCERNING E-MAIL  
NOTIFICATIONS

391

CONCERNING TELEPHONE  
NOTIFICATIONS

7

CONCERNING MATTERS  
NOTIFIED IN ANOTHER FORM

MOST FREQUENTLY REPORTED CATEGORIES OF MATTERS

|                    |  |   |
|--------------------|--|---|
| CONSUMER GOODS     | clothing and footwear, furniture, computer equipment | non-delivery of products ordered online or delivery of damaged products, problems with obtaining a refund when withdrawing from an agreement, rejection of complaints by the seller |
| TRANSPORT SERVICES | airlines   | problems with the recovery of funds in the event of flight cancellations  |
| FINANCIAL SERVICES | loans  | reimbursement of part of the early repayment  |

# 2.6

## COOPERATION WITH CONSUMER OMBUDSMEN AND CONSUMER ORGANISATIONS


Cooperation with municipal and county consumer ombudsmen is an **important element of UOKiK's efforts to effectively protect consumer interests**. The Office supports ombudsmen by organising, among other things, thematic webinars. Meetings held in 2021 concerned, among other things, consumer rights and problems in the telecommunications market, services of developers, and alternative investments. The Office also prepares a special newsletter for ombudsmen and provides free promotional materials related to consumer rights. A National Council of Consumer Ombudsmen, which acts as an opinion-making and advisory body, operates under the supervision of the President of UOKiK.

The Office also cooperates with consumer organisations e.g. within the framework of information and education campaigns, consumer advice as well as exchange of information on market violations and providing opinions on legal acts. A special form of cooperation are com-

petitions for consumer organisations to carry out tasks aimed at promoting consumer rights and providing legal assistance<sup>18</sup>. Permanent projects in this regard include **free nationwide counselling**, advice system and a consumer helpline.

### UOKiK for ombudsmen in 2021

- 7 thematic webinars
- 10 special newsletters



**UOKiK's grants**

In 2021, nearly PLN 1.6 million was earmarked for the implementation of grant tasks.

### SUMMARY OF GRANTS AWARDED IN 2021

|   | ORGANISATION   | GRANT AMOUNT     | EFFECTS  |
|---|--|------------------|--|
| Consumer Helpline in 2020–2021 – <b>2021</b>        | Fundacja Konsumentów   | PLN 1.3 million  | 74,928 pieces of consumer advice/information provided                  |
| Consumer e-Advice Centre in 2020–2021 – <b>2021</b> | Stowarzyszenie Euro-Concret, Stowarzyszenie dla Powiatu, Stowarzyszenie Aquila | PLN 250 thousand | 31,047 cases handled, including 23,375 pieces of consumer advice given |

### ADVICE IN NUMBERS

NEARLY **75** THOUSAND

ADVICE/INFORMATION PROVIDED – HELPLINE

OVER **31** THOUSAND

CASES HANDLED – E-ADVICE

<sup>18</sup> The award of grants by the President of UOKiK is made in accordance

with the provisions of the Act of 24 April 2003 on public benefit activities and

volunteering (Dz. U. //Journal of Laws/ of 2020, item 1057, Journal of Laws/ of

2021, item 1038, 1243, 1535, 2490.).

# 2.7

## EUROPEAN CONSUMER CENTRE

The European Consumer Centre in Poland (ECC Poland) operates at UOKiK and is part of the European Consumer Centres Network (ECC-Net)<sup>19</sup>, which comprises 30 centres in the 27 EU Member States plus Norway, Iceland and the United Kingdom. ECC Poland **provides free advice to consumers** on their rights in the EU single market and **helps to solve individual cross-border problems** out of court.

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 IN 2021

3,688

COMPLAINTS HANDLED, INCLUDING:

1,229

MEDIATIONS  
CONDUCTED

### ENQUIRIES IN 2021

1,981

ENQUIRIES HANDLED

### MOST FREQUENTLY REPORTED CATEGORIES OF CASES

|  |
|--|
| cancelled and delayed flights                    |
| faulty shoes                                     |
| problems with luggage                            |
| problems with dating website subscriptions       |
| problems with food ordering apps                 |
| problems with ticket brokers                     |
| problems with online clothing and footwear shops |

### EXAMPLES OF EDUCATIONAL ACTIVITIES IN 2021

| ACTIVITY  | TOPIC   |
|---|---|
| CAMPAIGN AT AIRPORTS  | cancelled flights, problems with luggage and hotels – the campaign was conducted at 9 airports thanks to the cooperation of the President of UOKiK and the President of Polish Airports |
| CAMPAIGN IN PUBLIC TRANSPORT  | cancelled flights, problems with luggage and hotels – the campaign was conducted in 3 Polish cities (Warsaw, Cracow and Wrocław)  |
| "BUY SAFELY IN THE EU!" ONLINE CAMPAIGN                                       | safe online shopping, verification of online shops  |
| DEBATE ON "SUSTAINABLE DEVELOPMENT AND CONSUMPTION – FROM THEORY TO PRACTICE" | sustainable consumption and related challenges  |

<sup>19</sup> The ECC-Net is co-financed by the European Commission.

3.1  
MARKET RESEARCH

3.2  
DRAFTING OF LEGAL  
REGULATIONS

3.3  
INFORMATION AND EDUCATIONAL  
ACTIVITIES

3.4  
INTERNATIONAL COOPERATION

# 03

MARKET RESEARCH

DRAFTING OF LEGAL  
REGULATIONS

INFORMATION AND  
EDUCATIONAL ACTIVITIES

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 the conditions for conducting business activities. Such analyses are carried out in the form of separate administrative proceedings and their results may be used for intervention measures. Market research is carried out, among other things, by asking questions to undertakings operating in a given industry. The analyses shall focus in particular on markets that, due to their

existing structure or changes, are at greater risk of anti-competitive behaviour. They can be nationwide or local.

In addition, the Office commissions social surveys to find out, among other things, the opinions of consumers and businesses on selected topics. A survey launched in 2021 looked at competition issues, including knowledge of competition rules.

## MARKET RESEARCH IN 2021\*

| RESEARCH              | NATIONWIDE RESEARCH | LOCAL RESEARCH  |
|-----------------------|---------------------|---|
| new proceedings       | 7                   | 24<br>including: 22 proceedings concerning the monitoring of public tenders related to the disbursement of EU funds |
| completed proceedings | 9                   | 23  |

\*Research aimed at gathering information on specific markets, conducted as separate investigations (independent of concentration or competition and consumer protection proceedings). Some of the investigations concerning local markets are linked to nationwide research projects coordinated by the UOKiK headquarters.

## Market research completed in 2021 – examples

### Market research on lead-acid battery processing

UOKiK conducted an investigation in connection with information concerning **possible threats to competition** in the lead-acid battery processing market. The investigation analysed the structure of the market, the prices of raw materials sourced, the behaviour of market participants on the supply and demand side, as well as assessed direct cooperation between the largest players. Based on the analyses performed, possible theories on the interaction of market participants were verified. The investigation did not reveal any circumstances indicating possible coordination between the leading processors.

### Market research concerning mineral wool

The reason for initiating the research was **that the mineral wool market is dominated by 5 large players** belonging to one association. The proceedings of the President of UOKiK were aimed at determining the structure of the market as well as the degree of market concentration. In addition, an analysis of the product offer of individual undertakings was carried out, along with an assessment of the applied pricing policy in terms of the possibility of concluding an anti-competitive agreement between the entities. The research found that although the market structure is stable and highly concentrated, the market is not hermetic and it is possible for new entrants to successfully enter the market. The investigation did not reveal a possible existence of agreements prohibited by law.

### Market research on cardboard and containerboard paper

The research concerned downstream products, i.e. containerboard paper, corrugated cardboard in the form of sheets and packaging manufactured from it. The proceedings of the President of UOKiK included manufacturers of corrugated cardboard and sellers. An analysis of the average prices of both corrugated cardboard and containerboard paper did not provide any basis for con-

cluding that these decisions were taken in concert by the sellers. The temporary increase in prices in the relevant markets was due to changes in material costs. The initial premise of the investigation was the **alleged existence of a practice** whereby containerboard paper was sold at inflated prices while leading players kept corrugated cardboard prices relatively stable. The analysis of prices and other market conditions did not reveal the existence of such a practice that could restrict competition.



## 3.2 DRAFTING OF LEGAL REGULATIONS

The President of UOKiK is committed to drafting legal regulations that **effectively protect consumer interests and support the development of competition**. The President of the Office both prepares legal solutions and analyses draft acts and regulations in terms of their potential impact on competition and the situation of consumers. UOKiK also participates 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. proceedings in which the CJEU interprets the provisions of EU law at the request of a national court. The Office analyses **preliminary ruling proceedings** in terms of the justification to proceed in case a given verdict may have an impact on the Polish case law.

### OPINIONS ON DRAFT LEGISLATION IN 2021

459

ACTS REVIEWED

477

REGULATIONS  
REVIEWED

868

OTHER GOVERNMENT  
DOCUMENTS REVIEWED

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

#### New act on contractual advantage – implementation of the Directive on unfair trading practices

A new act on contractual advantage was completed in 2021<sup>1</sup>. The amendment was associated with the **implementation of EU Directive 2019/633 on unfair trading practices** in business-to-business relationships in the supply chain of agricultural and food products. The Act corresponds to the existing solutions in essential respects. The changes introduced **strengthen the position of farmers as well as other suppliers and buyers of products** in their relations with the largest players in the agri-food market and **make it easier to eliminate unfair practices**. One of the novelties is the inclusion of subsequent sectors of the agri-food market in the scope of the regulation and the **introduction of turnover thresholds**, the exceeding of which results in a presumption of the existence of contractual advantage. In addition, the number of practices explicitly named and prohibited in the Act was increased and a distinction was made between absolutely and conditionally prohibited practices. The legislation also introduced an absolute prohibition on the unjustified reduction of the amount due for the supply of agricultural or food products after it has been accepted by the buyer, in particular as a result of a request for a discount (more information on prohibited practices: 1.4 Contractual advantage). Moreover, the President of UOKiK was given new tools in the area of contractual advantage, such as significant opinions in court cases, a procedure or voluntary submission to penalty allowing the penalty to be reduced by up to 50 percent, as well as provisional decisions. The new Act came into force on 23 December 2021.

<sup>1</sup> Act of 17 November 2021 on counteracting unfair exploitation of contractual advantage in trade in agricultural and food products (Dz.U. / Journal of Laws / of 2021, item 2262).

<sup>2</sup> Act of 20 May 2021 on the Protection of Rights of the Buyer of Housing Units or Single-Family Homes and on the Developer Guarantee Fund of Laws / of 2021, item 1177). The new arrangements

### New developer's act

The regulations prepared by the President of UOKiK aim to **strengthen the protection of people buying flats on the primary market**. In particular, they protect consumers against the loss of funds deposited in a trust account. A key solution in this respect is the **creation of a Developer Guarantee Fund** (DGF), from which money will be paid out, among other things, in the event of the bankruptcy of a developer or a bank (after exceeding the amount covered by the Bank Guarantee Fund). Only an open and closed Residential Trust Account (RTA) with DGF security will be maintained. Moreover, the Act regulates, among other things, reservation agreements, supervision over the disbursement of RTA funds, removal of defects at the developer's expense or the possibility to withdraw from an agreement if material defects occur upon the acceptance of a flat. The new regulations apply to all agreements concluded between a developer and a buyer, including those in which the developer only undertakes to construct a dwelling unit (house), establish its ownership or transfer the right to property to the buyer. The Act will enter into force in 2022.

### Changes in the protection of consumer rights – implementation of the Omnibus Directive

The draft act strengthening consumer rights<sup>3</sup> is associated with **the implementation of EU Directive 2019/2161 – the so-called Omnibus Directive**. One of its objectives is to provide consumers with **greater transparency when shopping online**, which is why it provides for additional information obligations for providers of online trading platforms and increased responsibility of such providers. Among other things, undertakings will have to communicate the reasons for placing bids in a given order on online trading platforms. The legislation provides the same consumer protection rules for "free" digital content

will enter into force on 1 July 2022, with the exception of certain articles which will take effect on other dates.

<sup>3</sup> Draft Act amending the Consumer Rights Act and certain other acts (No. from the list of legislative works of the Council of Ministers: UC86).



and services (in exchange for personal data) as apply to paid services. The solutions also aim to **prevent overpricing prior to a promotion/sale**, hence the obligation for sellers to communicate the pre-discount price. The proposed changes also address the **elimination of dual quality of products in the EU and the extension of the withdrawal period for contracts** concluded during an unscheduled visit of an undertaking to a consumer's home or a tour organised by the undertaking.

In addition to the changes resulting from the Omnibus Directive, **the President of UOKiK has prepared additional regulations**. They are intended **to eliminate some of the irregularities concerning off-premises contracts**. The draft includes a right of withdrawal from certain off-premises or distance contracts for health services, as well as a ban on the conclusion of contracts for financial services during shows and tours. Another crucial solution is a ban on accepting payment before the deadline for withdrawal from a contract concluded during a show, tour, or unscheduled visit to a consumer's home. In 2021, inter-ministerial agreements and public consultations were conducted and opinions on the proposed amendments were given.

**Strengthening of UOKiK as an antitrust office – implementation of the ECN+ Directive**

The draft amendment to the Act on Competition and Consumer Protection<sup>4</sup> stems from the need to **implement Directive 2019/1** (the so-called ECN+ Directive), the aim of which is to **enforce competition law more effectively and ensure the proper functioning of the market**. Significant changes concern the leniency procedure, which provides, among other things, for the exclusion or limitation of criminal liability for natural persons acting on behalf of an undertaking who has benefited from this programme. The draft also clarifies the provisions on inspections and searches. Moreover, it changes the way fines for undertakings are calculated

at the evidence gathering stage. The regulation extends the obligation to provide the President of UOKiK with the requested information or documents to everyone, with the right for individuals to refuse to provide information and documents where it would expose them to criminal liability. In accordance with the directive, the amendment provides for **an increase in the independence of the antitrust authority**. The implementation of the ECN+ Directive will also enable more effective cooperation between national authorities, including better enforcement of fines against entities registered in the EU. In 2021, inter-ministerial arrangements and public consultations were conducted and opinions were given, and the draft was also adopted by the Committee for European Affairs and the Standing Committee of the Council of Ministers.

**Supplementing the powers of UOKiK as a consumer protection office – transposition of the CPC Regulation**

The draft amendment to the Act on Competition and Consumer Protection<sup>5</sup> serves to implement **EU Regulation No. 2017/2394** on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation No. 2006/2004/EC. In light of the current regulations, the President of UOKiK has a number of powers provided for in the CPC Regulation. Significant changes will concern the **powers of the President of the Office in the digital world**, in the form of enabling him to intervene against websites and applications that infringe consumer rights (including blocking them). In addition, the amendment provides for an extension of the scope of UOKiK's access to information from public authorities, national entities or agencies, the possibility to purchase goods or services during the inspection (including concealing the identity of the buyer), and the possibility to conduct searches in consumer proceedings. In 2021, public consultations were conducted and opinions on the draft Act were given.

**Amendment of the anti-gridlock act – assumptions**

The experience of UOKiK has shown that there is a need for changes focused on a more effective elimination of delays in commercial transactions. The President of the Office, in cooperation with the Minister of Development and Technology, has prepared a proposal for solutions that will **tighten up the current regulations and streamline proceedings in cases of excessive delay in the payment of cash benefits**. Among other things<sup>6</sup>, the amended Act provides for a more flexible approach to the imposition of fines. Thus, the sanction imposed will be appropriate to the gravity of the infringement or the individual situation of the undertaking. Another novelty is the exclusion of inspections concerning the timeliness in the payment of cash benefits in commercial transactions concluded with entities belonging to the same group of companies. The amendments also concern a clarification of the reporting system, including the rules for the submission of corrections. In 2021, the assumptions of the amendment were developed.

**PRELIMINARY RULINGS IN 2021**

45

**NEW PRELIMINARY RULINGS**

**Changes to the fuel quality monitoring and control system**

An amendment to the provisions concerning the system for monitoring and controlling the quality of fuels and solid fuels<sup>7</sup> introduced **an obligation to control hydrogen used in vehicles**. The amendment is due to the future importance of hydrogen as an alternative fuel and the need to protect future users of vehicles running on this type of fuel. The regulation also supports the development of transport based on alternative fuels.

The Act also introduced a change concerning **the adjudication on matters of reimbursement of costs associated with laboratory tests of fuels and solid fuels** that do not meet quality requirements. These decisions were excluded from the competence of the President of UOKiK and their issuance was entrusted to voivodeship inspectors of the Trade Inspection. The provisions in this regard have been applied since 23 September 2021.

**New regional aid map for Poland for 2022-2027**

UOKiK prepared a draft regulation of the Council of Ministers on the development of a regional aid map for the years 2022-2027<sup>8</sup>. The aim of the regulation was to define the areas in Poland where **it is permissible to grant regional aid over the next six years**, as well as to set the maximum intensity of aid for these areas (taking into account, in particular, the level of gross domestic product per capita and the types of economic activity). Furthermore, it defines the situations in which the granting of regional aid is not allowed. The regulation was adopted by the Council of Ministers in December 2021, although the European Commission approved the new Regional Aid Map for Poland for 2022-2027 contained in the Regulation already in September 2021.

<sup>4</sup> Draft Act amending the Act on Competition and Consumer Protection and certain other acts (No. from the list of

legislative works of the Council of Ministers: UC69).

<sup>5</sup> Draft Act amending the Act on Com-

petition and Consumer Protection (No. from the list of legislative works of the Council of Ministers: UC15).

<sup>6</sup> Act of 19 July 2019 amending certain acts to reduce payment gridlocks (Dz. U. / Journal of Laws / of 2019, item 1649).

<sup>7</sup> Act of 11 August 2021 amending the act on fuel quality monitoring and control system and certain other acts (Dz. U. / Journal of Laws / of 2021, item 1642).

<sup>8</sup> Regulation of the Council of Ministers of 14 December 2021 on the development of a regional aid map for the years 2022-2027 (Dz.U. / Journal of Laws / item 2422).

# 3.3

## INFORMATION AND EDUCATIONAL ACTIVITIES

The UOKiK's information and educational activities consist, among other things, in carrying out **social campaigns and educational projects, organising events, and cooperating with the media**. Moreover, the Office

engages in publishing activities and runs thematic web portals devoted to competition and consumer protection issues.

### WEBSITES IN 2021

| WWW                              | UNIQUE PAGE VIEWS  |
|----------------------------------|--|
| uokik.gov.pl                     | 4,021,003<br>the Office's main website, on which the Bulletin of Public Information (BIP) is maintained. In 2021, 634 requests for public information were received. |
| prawakonsumenta.uokik.gov.pl     | 1,447,323  |
| finanse.uokik.gov.pl             | 457,234  |
| konkurencja.uokik.gov.pl         | 193,844  |
| polubowne.uokik.gov.pl           | 87,498   |
| przewagakontraktowa.uokik.gov.pl | 9,759  |
| zatoryplatnicze.uokik.gov.pl     | 9,686  |

### Information and educational projects of UOKiK

#### "Calculate and don't miscalculate!" social campaign

In September 2021, UOKiK launched a social campaign under the motto **"Calculate and don't miscalculate!"**. The aim of the campaign was to draw consumers' attention to the risk of losing their savings and the need to be cautious when making investment decisions.

The Office made two **30-second promotional videos**. 177 entities were involved in the campaign on a non-commercial basis.

The campaign also included a webinar with experts from the Office of Competition and Consumer Protection, the Polish Financial Supervision Authority and consumer institutions, who talked about investing or buying property on credit. In addition, UOKiK prepared a **calculator** which allows consumers to check by how much the approximate loan instalment will change at different interest rates. The campaign was also accompanied by a series of educational press releases on mortgages, investment funds, and investing in commercial real estate or shares and bonds.

### THE CAMPAIGN WAS SUPPORTED BY:

177

ENTITIES, INCLUDING:

71

TELEVISION AND RADIO  
STATIONS

45

WEBSITES

5

PRINTED PRESS  
TITLES

10

PUBLIC TRANSPORT  
COMPANIES AND CARRIER  
OWNERS

46

INSTITUTIONS

i.a.: central and local administration,  
consumer ombudsmen, voivodeship  
inspectorates of the Trade Inspection

### "Market Collusion? Give a Signal!" UOKiK campaign

In December 2021, on the occasion of World Competition Day, the "Market Collusion? Give a Signal!" campaign was launched. Its aim was to **raise undertakings' awareness of competition law infringements and encourage them to report such infringements**. As part of the campaign, a spot, banners and graphics were prepared and published, for example, on social media and industry websites. In addition, the Office informed about the types of illegal market practices that violate the principles of fair competition and indicated the ways to contact the Office to notify any potential irregularities. For the duration of the campaign, a special helpline was launched to enable people to obtain additional information, e.g. about the Whistleblower programme, which enables the collection of anonymous signals from the market.

### Konsument.edu.pl portal

UOKiK promoted the **konsument.edu.pl** portal created with the ProPublika Foundation under a grant for NGOs. It is a free, interactive educational tool for improving consumer competence, especially for young people. The website is a simulator of a social network featuring **10 trap events**. These are related to threats that consumers are often exposed to, such as shopping fraud, BLIK scam, subscription trap, alternative investments, financial pyramid, and fake fundraiser.

UOKiK created promotional materials and participated in 7 industry conferences, during which the portal was presented to over 1,700 participants. In 2021, **7,7 thousand users visited the portal**.

### #UOKiKtestuje (UOKiKtesting)

The educational "UOKiK testing" initiative is a series of independent comparative tests of everyday products. The results and advice presented in the reports are intended to support consumers in making informed purchasing decisions. The tests are carried out in accredited UOKiK laboratories<sup>9</sup>, with the support of the Trade Inspection. In 2021, **6 reports** were published on: baby nappies, white laundry powders, remote control toy cars, thermal mugs, school bags and winter windscreen washer. The #UOKiKtestuje (UOKiKtesting) initiative recorded **approx. 125,000 page views**.

#### 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, car parts, household items, were published on the Office's website. The materials included the results of inspections and advice for consumers.

### Children's Day at UOKiK

On the occasion of Children's Day, UOKiK organised a webinar on its YouTube channel entitled **"Be CErtain of toy safety"** addressed to undertakings and persons buying toys. UOKiK laboratory staff and market surveillance experts answered questions on the obligations of toy manufacturers, importers and sellers. They explained how these products are inspected in the laboratories of the Office. They also offered advice on what to look out for when choosing a gift for a child. **Over 2,000 page views** were recorded for press releases concerning this campaign.

### UOKiK for senior citizens

Every year, the Office engages in educational activities aimed at the elderly. As a partner of the Senior Citizens' Day campaign organised by the Social Insurance Institution (ZUS) and the Polish Association of Pensioners and Invalids, UOKiK prepared **advice** for the "ZUS for Senior Citizens" magazine. These concerned the **rights of consumers buying off-premises**, for example when concluding contracts for the supply of telecommunications and energy services. In addition, in November 2021, in connection with National Senior Citizens' Day, UOKiK reminded senior citizens of their rights and the most common risks, as well as the most important changes in the law to protect their interests.

### Black Friday – vademecum for bargain hunters

In November 2021, in the wake of the now traditional promotional campaigns and pre-Christmas sales, UOKiK prepared a series of tips for consumers on traditional and online shopping. The campaign also included a webinar entitled **"Black Friday – vademecum for bargain hunters"** with experts from the Office, ECC and the Consumer Ombudsman. Among other things, tricks used by sellers and ways of verifying e-shops were discussed, and educational shopping simulators were presented.

### Events and competitions

#### Competition of the President of UOKiK for the best MA and PhD thesis

As every year, UOKiK organised a competition for the best MA thesis in the field of competition protection (12th edition) and consumer protection (10th edition). The best PhD theses are also selected every 3 years (to be selected in 2022). In 2021, a record number of MA theses were submitted. **Out of 49 papers, the competition jury awarded 6 and honoured 2**.

### World Consumer Rights Day

From 15 to 19 March 2021, UOKiK celebrated World Consumer Rights Day under the motto **"I surf, I check, I buy. Consumer Safe Online"**. The educational portal konsument.edu.pl was promoted. The Office also launched an event page on Facebook and organised a series of video chats during which experts talked about consumer rights. This was accompanied by a series of tips on safe shopping and investing online.

### ECN+ Conference

On 2 March 2021, in cooperation with the Centre for Antitrust and Regulatory Studies of the University of Warsaw, UOKiK organised an international online conference entitled **"Implementation of the ECN+ Directive in Poland – towards a more effective application of competition law"**. The topic of the meeting was the implementation of the ECN+ Directive in Poland and the amendment of the Act on Competition and Consumer Protection. The antitrust law experts invited discussed, among other things, the issue of ensuring the independence of the national competition authority, changes to the leniency programme, new rules on sanctions and the use of investigative powers. The issue of more effective cooperation between the national competition authorities of the EU Member States was also raised. The event was attended by over 3,000 people from Poland, EU countries and the USA.



#### Patronages of the President of UOKiK

In 2021, **21 events** were held under the honorary patronage of the President of UOKiK.

<sup>9</sup> More information on the research carried out by the UOKiK laboratories: <sup>2.4</sup> Laboratories.

Publishing

In 2021, under the "UOKiK Library" series, 6 items awarded in the competition for the best master's thesis were published – 3 publications concerned competition protection and 3 were devoted to consumer protection.

In addition, the Office published a document entitled "Clarification of the method of determining fines in cases related to infringements of the prohibition of adopting competition-restricting practices" and a consumer leaflet "Senior citizens, don't be fooled". The publications are available on the UOKiK website.

Cooperation with the media

The Office is in regular contact with the media and it publishes press releases concerning, among other things, decisions and proceedings of the President of UOKiK, results of inspections conducted by the Trade Inspection and consumer warnings on its website. Thanks to the cooperation with the media, the projects and educational campaigns conducted by the Office are also promoted on a non-commercial basis. In 2021, the number of followers of the UOKiK Twitter account was over 13 thousand.

COOPERATION WITH THE MEDIA

201  
PRESS RELEASES ISSUED

2  
PRESS CONFERENCES  
(co-organised by UOKiK)

1,222  
TWEETS POSTED  
(approx. 2.35 million views)

MEDIA COVERAGE OF UOKIK

3.2 THOUSAND  
PRESS ARTICLES

5.8 THOUSAND  
RADIO AND TELEVISION  
MATERIALS

8.8 THOUSAND  
ONLINE PUBLICATIONS

42 THOUSAND  
MENTIONS OF UOKIK  
I.A. ON TWITTER  
AND FACEBOOK

# 3.4 INTERNATIONAL COOPERATION

An important aspect of the activities of the President of UOKiK are **initiatives undertaken in the international forum**. The Office cooperates with competition and consumer protection authorities from other countries, as

well as with 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



### Examples of international cooperation

#### Twinning projects – Serbia and Morocco

Twinning projects are an EU tool for institutional co-operation between Member State administrations and beneficiary or partner countries. In 2021, UOKiK won 2 competitions for twinning activities in consortia.

→ The project dedicated to **strengthening the consumer protection system in Serbia** is implemented within the framework of the Slovakia-Germany-Poland consortium. It serves to prepare the Serbian Ministry of Trade, Tourism and Telecommunications for the legal and institutional changes resulting from the country's future membership in the European Union. The activities were undertaken in June 2021 and will take over 2 years.

→ The project dedicated to **strengthening the institutional capacity of the Competition Authority in Morocco** will be implemented in cooperation with Greece and Italy. These activities will focus on supporting the antitrust authority as well as increasing economic competitiveness and the development of the private sector. It will be important to promote the approximation of Moroccan law to the EU regulatory system and the implementation of international best practices. The project will commence in March 2022 and will take 2 years to complete.

#### Polish aid

In the second half of 2021, UOKiK implemented the project **"Institutional Strengthening of the Republic of Armenia in Building a Consumer Protection System"**. The activities were conducted for the benefit of the Armenian Competition Protection Commission in connection with the institution's new area of competence. The project was co-financed by the Polish development cooperation funds of the Ministry of Foreign Affairs of the Republic of Poland – under the Polish Aid programme. The aim of the project was to create a framework for the development of a professional administration in the field of consumer protection, operating on the principles laid down in national law and in accordance with EU standards and best

practices. The cooperation was conducted, among other things, through study visits.

#### Consumer Dialogue

22 October 2021 Poland hosted a Consumer Dialogue on the "New Consumer Agenda". The event was organised by the European Commission (EC) and UOKiK. The theme of the meeting was consumer protection in the digital world and issues of sustainable development and green transformation. The discussion took place with the participation of, among others, representatives of consumer and business organisations, as well as academic circles. The dialogue was broadcast online. The event was preceded by a bilateral meeting of the President of UOKiK and the Commissioner for Justice.

#### UN Digital Summit

On 6-10 December 2021, the UN Digital Summit (IGF) was held in Katowice. The motto of the meeting was **"United Internet"**. UOKiK actively participated in the event by organising three panel discussions: two in the area of artificial intelligence (issues of digitisation of administration and consumer protection) and one on sustainable consumption in e-commerce. UOKiK invited both Polish and foreign partners representing various stakeholder groups to participate in the panel discussions.

#### Pyramid-type incentive scheme project – ICPEN

In 2021, UOKiK initiated a new ICPEN project group dedicated to **pyramid-type incentive schemes**. The Office is a co-leader of the project together with Ireland. Group members include: Belgium, Italy, USA, Colombia and New Zealand. The aim of the cooperation is, among other things, to identify pyramid-type incentive projects on the basis of the laws in force in various countries and ways of combating this type of practice. The activities planned include online workshops on areas such as legislation, enforcement, sanctions, education and consumer information. The first workshop took place on 26 October 2021 with the participation of representatives from 16 consumer protection agencies from around the world.

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