

# NATIONS UNIES Mission d'Administration Intérimaire des Nations Unies au Kosovo

PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

# KUVENDI I KOSOVËS CKYПШТИНА KOCOBA ASSEMBLY OF KOSOVO

Law No. 02/L-21

### ON GENERAL SAFETY OF PRODUCTS

The Assembly of Kosovo,

Pursuant to UNMIK Regulation No. 2001/9 of 15 May 2001 On the Constitutional Framework on Provisional Self-Government in Kosovo, Chapter 5.1 (a), 9.1.1 and 9.1.26 (a), for the purpose regulating general safety of products put on the market, and in harmony with EU standards,

Hereby approves:

#### THE LAW ON GENERAL SAFETY OF PRODUCTS

### I.GENERAL PROVISIONS

### Article 1

- 1.1. This law shall regulate general safety of products placed on the market.
- 1.2. This law shall apply to all products, which according to this Law are considered products, unless the safety of a given product is regulated by any other provision of the applicable law.
- 1.3. If the special law or the provisions governing application of that law regulate the safety a given product, then this Law shall apply only when the risks or types or risks for that product have not been anticipated by that special law or by the provisions resulting from that law.

#### Article 2

This law shall not apply to products which have been ordered as antiquities or products that have to be repaired or processed prior to their usage, provided that the supplier has in advance informed clearly the person for whom the product was ordered.

#### Article 3

Terms used in this law shall have the following meanings:

- (i) **Product** shall mean every type of product, including products offered for service purposes and those dedicated to consumers, or products which in foreseeable conditions could be used by consumers, even when they have not been dedicated, delivered or handed over to them, either as paid or free of charge by any trade activity, no matter whether they are new, used or repaired.
- (ii) A safe product shall mean every type of product, which in normal or special conditions of usage, does not represent any danger for consumption, including its expiry or starting date of usage, requirements for installation or maintenance and which is considered usable and is in conformity with the highest safety levels for people's health, taking particular consideration to following elements:
  - Product characteristics, especially their composition, packing, installation instructions and, if required, installation and maintenance.
  - The influence of a product on other products, in cases when it may normally be consumed with other products.
  - The display of a product, its annotation with warnings and instructions for its consumption and removal of all other signs or notices dealing with that product.
  - Categories of consumers who may be exposed to such risks when using a certain product, especially children and old people. The possibility of attaining a high level of safety or its exposition to other products which are less dangerous and do not affect the conditions of a product considered as dangerous.
- (iii) **Dangerous product** shall mean any product which is not in accordance with the definition given in Paragraph 1, item (ii) of this Article.
- (iv) **Serious risk** shall mean every type of risk that requires a rapid action of state authorities, including also the risk, the consequences of which are not current.

## (v) **Producer** shall mean:

- Producer's product which has been registered in Kosova or any other person who presents himself as a producer, and who puts his or her name and the trade mark on the product, or any other distinctive sign, or processes the product completely
- The agent of the producer, when the product is not registered in Kosova or when it does not have a registered agent in Kosova, importer of the product.
- Other persons in the production chain, to the extent when their activity may affect the safety characteristics of the product.
- (vi) **Distributor** shall mean any person in the provision chain, whose activity does not affect safety characteristics of the product.

- (vii) **Withdrawal of product** shall mean every measure taken for the withdrawal of a dangerous product, which the producer or deliverer has already sent or offered it to the consumer.
- (viii) **Prohibition of distribution** shall mean any measure taken for the purpose of prohibiting the distribution, displaying or offering a product to consumers.

# II. GENERAL SEFATEY REQUIREMTNS FOR PRODUCTS

# Article 4

- 4.1. The producer is obligated to put on the market only safe products.
- 4.2. Pursuant to Paragraph 1 of this Article, a product is considered safe:
  - (i) When it meets all requirements included in the technical rules dealing with it.
  - (ii) If it does not have relevant technical rules, but the product meets the requirements for Kosovo standards, which are taken from European standards, and which have been announced in the "Official Gazette."
  - (iii) If it does not have relevant standards or technical provisions referring to the above-mentioned clause, but as such are in conformity with European standards determined by international agreements.
- 4.3. Products which seem deceptive shall not be produced, exported or be put on the market, and which for this reason are considered unsafe for consumers, especially for children.

# Article 5

- 5.1. The market inspectorate, by a decision, shall ban the usage and placement of certain products on the market, namely shall make a decision to withdraw them from the market, if he or she ascertains that such products, even when they meet the conditions under Article 4, Paragraph 2 of this Law, may endanger the safety and health of consumers and other customers.
- 5.2. An appeal or charge against the decision under Paragraph 1 of this Article does not postpone execution of decision.

# III. PRODUCER'S AND DISTRIBUTER'S OBLIGATIONS

# Article 6

- 6.1. In order for a product to be guarantied, producers and distributors shall:
  - (i) Inform consumers and other customers, through instructions for usage, which must be clearly displayed, as well as other necessary notifications, so that consumers and other customers would be able to assess characteristic risks of the product during the anticipated expiry time of their usage, when such risks cannot be noticed without a due warning against such risks, and take due measures against such risks.

- (ii) In accordance with characteristics of the product that is delivered, appropriate measures shall be taken regarding the information about the risks of such products, as well as other related measures, if required, dealing the withdrawal of products from the market, in order to avoid risks.
- 6.2. When producers and distributors have been informed or it is deemed that they have been informed that the products put on the market represent a risk to consumers, and are not in harmony with general safety requirements, competent authorities shall immediately be informed.
- 6.3. Producers and consumers, within the scope of their activities, shall cooperate with competent authorities, in order to take measures to avoid the risks which sent products represent or which have already been sent.
- 6.4. Notifications under Paragraph 1, item (i) of this Article do not free anybody from his or her liability of putting on the market only safe products.

## IV. SUPERVISION

#### Article 7

- 7.1. Market inspectors shall supervise application of provisions of this Law, in accordance with this Law and other laws which specify the tasks and powers of market inspectors.
- 7.2. Market inspectors, besides their powers for taking measures deriving from special provisions related to their work and those laid down by this Law, have the following additional powers:
  - (i) To inspect any product:
  - (ii) To continually verify, even after a product is put on the market as a safe one, the level of safety characteristics, namely until its final phase of usage;
  - (iii) To request all necessary information from persons in charge;
  - (iv) To take samples from products for the purpose of testing their safety standards;
  - (v) To inspect any product that in certain conditions may represent a risk;
  - (vi) To demand that a product be provided with clear and explicable warnings in an official language concerning the risks which that product may represent;
  - (vii) To determine conditions for putting and keeping products safely on the market.
  - (viii) To control any product that may represent a risk for particular persons;
  - (ix) To advise and keep people informed on due time about such risks, including specially forewarned displays;
  - (x) To control any product that may be dangerous;

- (xi) To inspect, verify and assess the safety of any product, during certain periods and prohibit their delivery, their offer or their display.
- (xii) To withdraw any risky product;
- (xiii) To ban putting in the market a product and take relevant necessary measures to insure observance of such measures;
- (xiv) To ban any risky product that has already been put on the market;
- (xv) To order or organize immediate and efficiently withdrawal from the market, and warn customers about the risks they represent;
- (xvi) To order, harmonize or require, as appropriate, together with producers and distributors withdrawal of products from the producer and destroy them in appropriate conditions.
- 7.3. When the market inspectorate has taken measures under Paragraph 2 of this Article, particularly those mentioned in items (x) (xii), they shall apply such measures proportionately and in accordance with the gravity of such risk, taking into consideration security principles.
- 7.4. If the market inspectorate does not have relevant professional expertise or equipment for execution of certain measures laid down under Paragraph 2 of this Article, and which are within the scope of their powers, they may delegate such powers to institutions which are competent for such activities
- 7.5. Expenditures for inspection proceedings, carried out during the execution of supervision procedure, shall be paid by producer or importer, if it is determined that the product was not safe due to mistakes made by them.

### Article 8

The Ministry of Trade and Industry shall issue an administrative instruction, within six (6) months upon the promulgation of this Law, which will regulate the content and notification procedure for the purpose of informing other governmental bodies, international entities and the public, regarding the risks of products put in the market, which as such may threaten the health and safety of the people, and take measures for withdrawal of such products from the market. The content of this administrative instruction shall also foresee the tasks and responsibilities of the Department for the Protection of Consumers, the Market Inspectorate and other relevant bodies responsible for supervision and implementation of nutritive, hygienic and sanitary conditions.

## V. PUNITIVE PROVISIONS

#### Article 9

9.1. Pursuant to a schedule issued by the Ministry of Trade and Industry, legal persons shall pay a fine of 2.000 - 20.000 Euros, whereas natural persons shall pay a fine of 200 - 2.000 Euros, if:

- (i) Contrary to Article 4, Paragraph 1 of this Law they put on the market unsafe products;
- (ii) Contrary to Article 4, paragraph 3 of this Law they put or distribute on the market dangerous products.
- (iii) Contrary to Article 6 of this Law they do not inform properly consumers or other customers, or do not take adequate measures to avoid risks.
- (iv) Contrary to Article 7 of this Law they do not act in conformity with executive decisions of authorized inspection bodies.
- 9.2. The responsible person of a legal entity shall pay a fine of 200 Euros if he or she violates the preceding paragraph.
- 9.3. All payments resulting from the application of provisions of this Law shall be deposited to the Kosovo Consolidated Budget.

# VI. TRANSITIONAL AND FIANL PROVISIONS

## Article 10

Punitive proceedings that initiated prior to the date when this Law enters into force shall be executed in accordance with provisions that were in force on the day when this Law becomes effective.

#### Article 11

This Law shall enter into force upon its approval by the Assembly of Kosova and its promulgation by the Special Representative of the Secretary-General.

Law No. 02/L-21 20 May 2005

President of the Assembly of Kosovo

**Academic Nexhat Daci**