

УПРАВЛІННЯ ЯКІСТЮ ТА БЕЗПЕЧНІСТЮ

UDC 366.5(061.1ЄС)=111 DOI: [https://doi.org/10.31617/tr.knute.2019\(29\)01](https://doi.org/10.31617/tr.knute.2019(29)01)

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CONSUMER RIGHTS PROTECTION: THE PRIORITIES OF THE EUROPEAN UNION

The system for protection of consumer rights for safety and quality of goods is analyzed, with describing the institution framework in this field, legal and regulatory base for protection of consumer rights for safety and quality of goods; the peculiar features of the EU system for protection of consumer rights for safety and quality of foodstuffs are highlighted; the essence of "The New Course for Consumers" proposed by the European Commission is shown.

Keywords: consumer protection, safety, quality, directive, regulation, policy.

Мотузка Ю., Ласкова А., Яроссова М. Защита прав потребителей: приоритеты Европейского Союза. Проведен анализ системы защиты прав потребителей на безопасность и качество товаров в странах ЕС, охарактеризованы институциональная база в этой сфере, законодательно-нормативное обеспечение защиты прав потребителей на безопасность и качество товаров; определены особенности системы ЕС по защите прав потребителей в сфере безопасности и качества пищевых продуктов; раскрыта суть "Нового курса для потребителей", определенного Европейской Комиссией.

Ключевые слова: защита прав потребителей, безопасность, качество, директива, регламент, политика.

Background. The economic development of EU and its common market is based on European values and core principles: democracy, human rights protection, free trade in the market economy context. Issues of consumer rights protection are integral components of the strategic documents of EU: the Treaty Establishing the European Economic Community, the Treaty on the functioning of the European Union, the Charter of Fundamental Rights of the European Union. The priority areas of action, intended to secure the fundamental rights of EU, fixed in the Treaty Establishing the European Economic Community, put emphasis on the need to protect consumer rights, whereas provisions of the Charter of Fundamental Human Rights in EU call for the inclusion of the enhanced level of consumer rights protection when implementing the policy of any kind [1–4]. It is, therefore, emphasized that the high level of consumer rights protection achieved in EU is not a constant, but has to be continuously enhanced. Before the creation of EU, each European country had its own legal framework elaborated with consideration to national peculiarities. But EU could create a system capable to ensure the equally high overall European level of consumer rights protection in all its member countries and the efficiency of its improvement and development mechanisms. The consumer rights protection policy is subject to permanent attention of the European Commission and governments of EU member countries. The share of consumer goods and services is more than 50 % of GDP in a major part of EU member countries [5]. It follows that the issues of safety and quality of products and enhancement of their competitiveness are priority ones in the EU policy.

The article's objective is to analyze the consumer rights protection system for safety and quality of goods in EU member countries.

Materials and methods. The methodological framework of the research is based on the methods of scientific cognition, system approach and generalization, legal and regulatory acts of EU, and scientific works.

Research objects: the system protecting consumer rights for safety and quality of goods.

Results. The effective consumer rights protection system in EU is critically important for rapid development of the modern economy [6]. Understanding this fact led to the formation of a complex and multifaceted system in the EU on the one hand, and effective on the other. At the overall European level, the issues related with consumer policies elaboration are dealt with by the EU Council, the European Commission and the European Parliament (*Figure 1*). The consumer policy is created at legal, strategic and program level. The legislative body regulates the fundamental consumer rights, specifies the legal requirements and standards on consumer rights protection, establishes the responsibility for offenders and the legal base for action and interactions of the bodies implementing the protection, and assists in settling consumer disputes. The strategic planning aims to create the strategy and action program of EU on consumer rights protection for the long and short run [7].

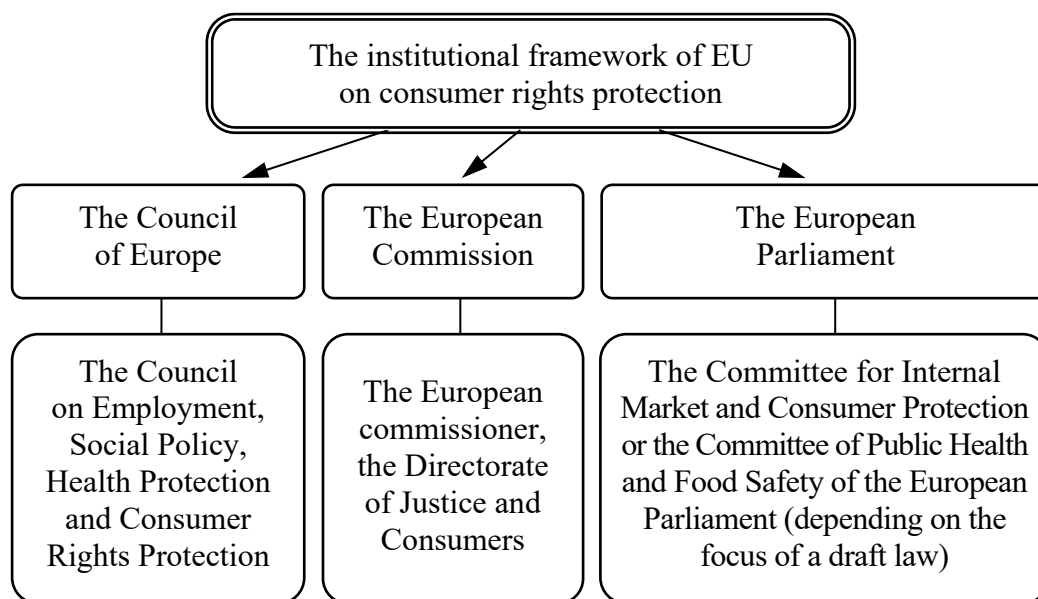


Figure 1. The institutional framework of EU on consumer rights protection

At the level of the Council of Europe integrating the governments of member countries, the Council on Employment, Social Policy, Health Protection and Consumer Rights Protection operates. At the European Commission level, the issues of health protection and consumer policy are combined and supervised by one of the European commissioners. At the European Parliament level, the issues of internal market and consumer rights protection are dealt with by the respective committee.

Each EU member country enjoys autonomy in the approaches to internal consumer policies; while government authorities concerned with setting and implementing the consumer rights protection policy are usually assigned to the ministry of economy, in some countries it is the responsibility of the ministry of justice, the ministry of social policy or the ministry of health protection. The fundamental issue on which the actions of the European Commission are focused in the consumer policy context, is consumption safety and consumer health, protection of economic interests of consumers, full operationalization of consumer rights for information, education, effective interactions of supranational EU bodies on consumer rights protection with national bodies in member countries and interactions of the latter between each other [7; 8].

Presently, the consumer policy of EU is considered as an important contribution in creating the strategy "Europe 2020" which core objective is to push up the consumer demand and its important role in overcoming crisis tendencies and furthering economic growth of EU [8]. The Program of EU Action on Consumer Policy for 2014–2020 is created as a follow up of the EU Strategy on Consumer Policy for 2007–2013 [9]. The European Commission continues the effort aiming to develop consumer policy of EU using the results of analysis of the strategy for 2007–2013; the effort

is intended to support and complement national policies, in order to allow EU citizens to fully enjoy the advantages of the single market, with their safety and economic interests properly protected. The Program highlights key actions required to provide for better opportunities for consumer rights protection and for maximal engagement of EU member countries in it. Four priorities of this policy are formulated in the Program (*Figure 2*).

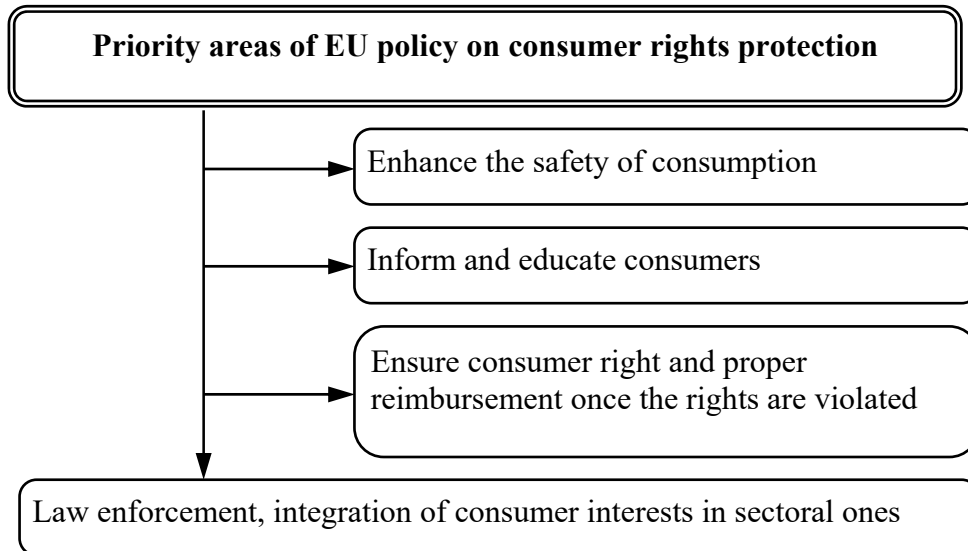


Figure 2. Priority areas of EU policy on consumer rights protection [10]

Also, the Action Program needs consideration for new social problems that have become urgent and acute by now. They include: the enhanced complexity of taking decisions by consumers; the need to adopt more sustainable models of consumption; opportunities and threats born by digital technologies and the increasing social exclusion provoked by them; the number of vulnerable consumers and aging of the population.

The principle condition for the access of imports to EU markets is that life and health of European consumers have to be maximally protected. The products imported to EU have to conform to the same requirements as the products made inside EU. The basic principles of food law in EU are [11]:

- organization of control on scientific grounds;
- hygiene and safety across the chain;
- preventive control and preventive safety;
- timely informing all whom it concerns about potential and existing threats;
- transparency of supply chains: possibility for monitoring, allowing for quick reclamation.

The legal and regulatory framework of EU on food safety consists of the following components [12–19] (*Table*):

Description of legal and regulatory framework on consumer rights protection, safety and quality of goods

Document title	Description
Directive 2011/83/EU European Parliament and Council <i>Consumer Rights</i> from 25.10.2011	Lays down and specifies certain aspects of consumer rights protection (the enhanced level of transparency of prices, the unified conditions for the consumer's refusal from the contract on purchase and sales, etc.)
Directive 2001/95/EU the general product safety (<i>GPSD</i>) from 03.12.2001	Focused on the guarantee of high level of product safety in EU for the consumer products, to which the sectoral harmonized law of EU does not apply. The key provision of the Directive is that producers are obliged to introduce only the products that are safe for consumers
Regulation 178/2002 from 28.01.2002	Fixes the fundamental principles for regulating the safety of foods and fodder:
"The general principles and requirements of food law, establishes the European Food Safety Authority and lays down procedures in matters of food safety" from 28.01.2002	provides the definitions of principle terms to which other EU acts refer; lays down the requirements to foods and fodder that can be introduced to EU markets; establishes the early-warning system (RASFF); establishes the rule for traceability of foods. This regulation creates the European Food Safety Agency (EFSA)
Directive of the Council 2002/99/EU	Laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption
"The animal health rules" from 16.12.2002	
Regulation EU 852/2004	Lays down general rules on the hygiene of foodstuffs for all the market operators, involves the registration of all the food industry operators; the primary responsibility for the observation of food hygiene/safety rests with a producer
"The hygiene of foodstuffs" from 29.04.2004	
Regulation EU 853/2004 laying down specific hygiene rules for food of animal origin, from 29.04.2004	Lays down the rules of hygiene applicable for all the foods of animal origin
Regulation EU 854/2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, from 29.04.2004	Lays down specific rules for the organisation of official controls on products of animal origin intended for human consumption
Regulation EU 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, from 15.03.2017	Lays down the requirements to: performing official control and other official actions by competent bodies of EU member states; financing of procedures involved in official control; administrative support and cooperation between member states in view of the proper application of the rules; creation of a computerized information system for control of information and data about the performance of official control

The peculiarities of the EU system protecting consumer rights for safety and quality of foodstuffs can be illustrated as follows (Figure 3):

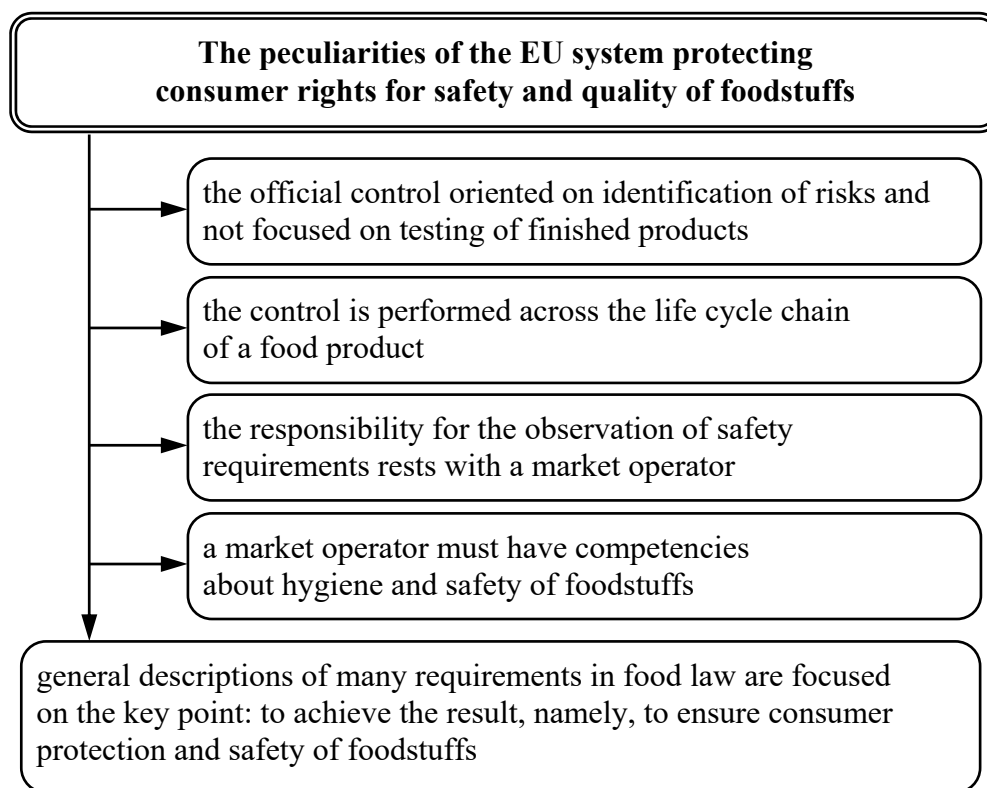


Figure 3. The peculiarities of the EU system protecting consumer rights for safety and quality of foodstuffs

A higher safety of consumption calls for the enhanced coordination of national legislative power bodies in EU members, to warn and eliminate the risks associated with globalization of value added chains and cases of unfair competition. In view of this, EU has introduced the rapid alert systems operating on the basis of agreements between national power bodies of member countries, obliging them to inform each other about unsafe products, thus allowing them to take emergency measures in their countries [20]. In case of necessity, the European Commission can take measures of the pan-European scale, to withdraw unsafe products from the market. The rapid alert system for non-food consumer products (RAPEX) has existed in EU since 2004; it is operated under the aegis of the General Directorate on Health Protection and Consumer Policy of the European Commission. The RAPEX engages 30 countries, including EU members and members of the European Association of Free Trade / the Single Economic Area (Iceland, Lichtenstein, and Norway). The RAPEX system is applied to exchange information on unsafe non-food products for consumers, including the products to which "sectoral" directives apply (such as toys, cosmetic goods, electric appliances, means of personal protection, machines and equipment, automobiles, etc.) [21]. Also, the RASFF (Rapid Alert System for Food and Feed)

system exists, operated since 1979 and modernized in 2002. This system is designed to provide quick information to the bodies charged with control of safety and quality of foodstuffs, quick exchange of information about threats for human and animal health, and to warn consumers [22].

The official objective of EU policy in this field is to ensure that a consumer takes the maximal health benefit from foodstuffs and to guarantee high level of consumer rights protection through maintaining strict standards in the production of foodstuffs [11]. EU and each member country have introduced a strict system for control over the foodstuff market and the tough responsibility for the violation of the law, making such violations economically unprofitable. Legal acts of EU enforced in the latest years include requirements of quick decisions on consumer claims and complains about foodstuffs, acceleration and cost reduction of the respective court procedures. Special attention is paid by EU to issues of research and laboratory facilities in the field of regulation of safety and quality of foodstuffs, as they constitute an important component of decision making in this field. "The New Course for Consumers" initiated and implemented by the European Commission is designed to enhance the application of EU law on consumer rights protection. New approaches implemented in this field are caused by newly emerging trade practices, globalization of commodity and services markets, which calls for unified approaches to consumer rights protection at national and international level, for the established institutional cooperation and an effective system of collective claims of consumers for restoration of violated rights [6]. The fundamental objectives of "The New Course" described below.

Enhance the consumer rights online (ensure the transparency, namely, the proper informing about the product's producer and seller, results of search requests, the right for reclamation, etc.)

Ensure the right of consumers for reclamation and reimbursement of damage (implements the practices of collective court suits from consumers, create a single EU mechanism protecting consumers from unfair commercial practices).

Implement an effective system for the imposition of sanctions for violations of the law on consumer rights protection in EU member countries, which is especially important due to massive violations of consumer rights resulting from the operation of transnational corporations.

Strengthening focus on the solution of the problem of dual quality of goods through its strict regulation in the updated version of the Directive on Unfair Commercial Practices.

Update some EU directives in this field.

Create favorable conditions for producers/sellers regarding reclamations (reimbursements provided to consumers only after the actual return of goods that have been used, etc.).

Conclusion. International practices of protecting consumer rights for safety and quality of foodstuffs are based on the principles acknowledged across the civilized world, which, once observed by countries, can guarantee them the successful integration in the common system of values – rights of

a human for quality and safe consumption. The safety of foodstuffs is one of the fundamental priorities of the EU policy. The European principles and approaches to the development of general and food law and its application practices are focused on creating the adequate awareness of the challenges of today. The European Commission makes emphasis on preventive measures, to predict potential threats and damage to consumers and counteract them, to foresee and remove potential barriers on the way to stable economic and social growth in EU. A relevant subject for future research can be related with elaborating principles and mechanisms for implementing the existing approaches in the national policies of Europe countries, in particular Ukraine.

REFERENCES

1. Treaty on the Functioning of the European Union. URL: <https://eurlex.europa.eu/legalcontent/EN/TXT/?uri=celex%3A12012E%2FTXT> [in English].
2. Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union 2012/C 326/01. URL: <http://eur-lex.europa.eu/legalcontent/EN/TXT/?uri=celex%3A12012E%2FTXT> [in English].
3. European consumer agenda European Commission. Official website of the European Commission. URL: https://ec.europa.eu/info/topics/consumers_en [in English].
4. Charter of fundamental rights of the European Union. URL: http://www.europarl.europa.eu/charter/pdf/text_en.pdf [in English].
5. Communication from the commission to the European parliament, the council, the economic and social committee and the committee of the regions. URL: http://ec.europa.eu/consumers/eu_consumer_policy/ourstrategy/documents/consumer_agenda_2012_en.pdf [in English].
6. EU Consumer policy. Official website of the European Commission. URL: http://ec.europa.eu/consumers/eu_consumer_policy/index_en.htm [in English].
7. Pritulska, N., Borodachova, N., & Motuzka I. (2018). European vector of reforming the consumer rights protection system in Ukraine. *Proceedings of XXII IGWT Symposium: "Sustainability, Quality and Innovation: A Global View of Commodity Sciences"*, 122-128. Rome and Gaeta, Italy [in English].
8. Analitichnyj ogljad systemy zahystu prav spozhyvachiv Jevropejs'kogo Sojuzu [An analytical review of the system for consumer rights protection in the European Union]. URL: <http://www.consumerinfo.org.ua/about/atts/AnaliticalRewiewEUConsumerProtection.pdf> [in Ukrainian].
9. Europe 2020 strategy. URL: https://ec.europa.eu/.../europe-2020-strategy_en [in English].
10. Consumer programme 2014–2020. URL: [http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/130724/LDM_BRI\(2014\)130724_REV1_EN.pdf](http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/130724/LDM_BRI(2014)130724_REV1_EN.pdf) [in English].
11. Food safety. Official website European Union. URL: http://europa.eu/pol/food/index_en.htm [in English].
12. Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0083> [in English].
13. Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety. URL: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32001L0095> [in English].
14. Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32002R0178> [in English].

15. Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption. URL: <https://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:018:0011:0020:EN:PDF> [in English].
16. Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs. URL: <https://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:226:0003:0021:EN:PDF> [in English].
17. Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for on the hygiene of foodstuffs. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004R0853&rid=6> [in English].
18. Regulation (EC) no 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption. URL: https://www.fsai.ie/uploadedFiles/Legislation/Food_Legislation_Links/Official_Control_Of_Foodstuffs/http__eur-lex.europa.pdf [in English].
19. Regulations regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0625&from=DE> [in English].
20. European Union agencies. URL: <https://euagencies.eu> [in English].
21. European Commission – Rapid Alert System RAPEX. URL: https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/?event=main.listNotifications [in English].
22. The Rapid Alert System for Food and Feed – RASFF. URL: https://ec.europa.eu/food/sites/food/files/safety/docs/rasff_annual_report_2017.pdf [in English].

Articles submitted to editor office of 04.03.2019.

Мотузка Ю., Ласкова А., Яросова М. Захист прав споживачів: пріоритети Європейського Союзу.

Постановка проблеми. Захист прав споживачів є неодмінною складовою базових стратегічних документів Європейського Союзу. Політика захисту прав споживачів постійно знаходиться у фокусі уваги Європейської Комісії та урядів країн ЄС. Кожна з цих країн має певні особливості в підходах до формування та реалізації внутрішньої споживчої політики. Європейська спільнота створила систему, що забезпечує країнам-членам однаково високий рівень захисту прав споживачів. Враховуючи тенденцію до глобалізації ринків та високу частку споживчих товарів і послуг у структурі ВВП більшості країн ЄС, є доцільним дослідження європейських підходів у сфері захисту прав споживачів на безпечність та якість товарів.

Метою роботи є здійснення аналізу системи захисту прав споживачів на безпечність та якість товарів у країнах ЄС.

Матеріали та методи. Основу методологічної бази дослідження становлять методи наукового пізнання, системного підходу та узагальнення, законодавчо-нормативні акти ЄС, наукові праці.

Результати дослідження. Ефективна система захисту прав споживачів в Європейському Союзі є надзвичайно важливою для динамічного розвитку сучасної економіки. Безпечність харчових продуктів – один із основних пріоритетів політики ЄС. Головна умова, за якою ЄС допускає на свої ринки продукцію з інших країн: життя та здоров'я європейських споживачів мають бути максимально захищені. Продукція, імпортована до Європейського Союзу, має відповідати всім вимогам, як і продукція, вироблена в країнах – членах ЄС. Акцент уваги Європейської Комісії зосереджено на превентивних заходах, щоб передбачити можливі загрози та шкоду споживачам і протидіяти їхній появі.

Проведено аналіз системи захисту прав споживачів на безпечність та якість товарів у країнах ЄС: схарактеризовано інституції та законодавчо-нормативну базу ЄС і визначено специфічні особливості системи ЄС у сфері захисту прав споживачів, а також розглянуто перспективні підходи "Нового курсу для споживачів", запропонованого Європейською Комісією.

Висновки. Отже, міжнародні практики захисту прав споживачів на безпечність та якість харчових продуктів базуються на визнаних в усьому світі принципах і засадах, а саме дотриманні прав людини на якісне та безпечне споживання. Європейські підходи до функціонування та розвитку системи захисту прав споживачів на безпечність та якість товарів спрямовані на створення умов для забезпечення цих прав з урахуванням викликів сьогодення. Перспективною вбачається розробка конкретних заходів щодо використання чинних підходів у національних політиках країн Європи, зокрема й України.

Ключові слова: захист прав споживачів, безпечність, якість, директива, регламент, політика.