ABSTRACT. The paper aims at a preliminary analysis of the RCPA (Russian Consumer Protection Act of 1992) and the ZoR (Act on Advertising of 1995). Russian consumer legislation develops dynamically. It is hybrid in so far as one certainly cannot neglect its transitory character in an economy of change. It is part of the change and instrument for change of the Russian society and economy in the interest of the consumer. Some solutions appear extremely specific and can only be understood as an attempt to deal with the problems of the day. Others are rather innovative, e.g., a positive approach to consumer protection by giving the consumer certain rights which can be enforced by an agency, consumer associations, or individual consumers; the recognition of the specificity of consumer law; a general information obligation of manufacturers, sellers, and suppliers; a detailed set of remedies in sales law which go beyond the legal traditions of most EC Member States as far as the extent and the persons responsible are concerned; strict liability for defective products and services; compensating the consumer for “moral harm”; the responsibility for consumer protection and advertising by a state authority with regional offices, namely the SCAP; a group action system tailored to the specific needs of consumer associations. On the other hand, there are certainly some deficits. Suggestions for reform include: The improvement of legislation to better protect the consumer in the pre-contractual phase; reshaping of the legal technique of the acts; creation of a specific liability of importers both in sales and in product liability legislation; elimination or modification of provisions which owe their origin to still existing seller's markets once the Russian economy becomes more competitive; development of specific rules to eliminate abuses in the financial services sector, e.g., rules on disclosure and deception.

PRELIMINARY REMARKS

Sources

The present paper is aimed at giving a first analysis of Russian legislation for protecting consumers' economic interests. The materials used by the author are as follows:

- The Russian Consumer Protection Act of 7 February 1992 with Amendments by the Act of 2 June 1993. The Act is available in an unofficial translation into English done by the Russian authorities (Bourgoigne, 1995, pp. 433–479); I have used this text (cited as RCPA) but have added some clarifications of my own.
Amendments to the Act proposed during the summer of 1994 by the Russian State Committee for Antimonopoly Policy and Support of New Economic Structures (SCAP). They are before the Russian Parliament. It is not expected that they will be adopted before the end of the term of the Duma in 1995.

- Postanovlenie (order) of the Plenum of the Supreme Court of the Russian Federation of 29 September 1994: “On the practical handling of matters relating to consumer protection by courts of law” (Bourgoignie, 1995, pp. 509–530); hereafter Postanovlenie. Its legal nature resembles somewhat the judgments of the European Court of Justice made in preliminary proceedings according to Article 177 EC Treaty insofar as it gives the Court’s binding opinion on the interpretation of matters of law which judges must apply in all individual decisions, even though the procedure can be initiated ex officio by the Supreme Court. Its legal basis can be found in Article 126 of the Russian Constitution of 12 December 1993 whereby the “Supreme Court is empowered to give clarifications (raz’jasnenija) on questions of judicial practice” (Kommentarii, 1994, p. 397).

- Razjasnenija (official clarification) of the SCAP of 15 August 1994: “On certain questions of the application of the RCPA.”


- The new Act on Advertising (Zakon o reclame, ZoR) which contains provisions of relevance for consumer protection, especially rules prohibiting misleading advertising.

Codification of Civil Law

Osnovy. At the same time as adopting the RCPA, Russia is codifying its civil law to abolish the old “socialist civil law” (Reich, 1972). The “Osnovy graždanskogo zakonodatel’stva” (Fundaments of civil legislation) were adopted by the former SSSR on 31 May 1991 and continue to be valid in the Russian Federation. They contain 170 articles, divided into 7 chapters, namely

- General provisions
- Property