REPORT


Committee on the Internal Market and Consumer Protection

Rapporteur: Brando Benifei
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EXPLANATORY STATEMENT - SUMMARY OF FACTS AND FINDINGS

Introductory remarks

The Rapporteur was tasked to draft an own-initiative Report on the implementation of Directive 2009/48/EC on the safety of toys (TSD). The TSD is a maximum harmonization Directive, with the double objective of ensuring a high level of protection of children across the EU and of guaranteeing the free movement of toys within the Single market. To this end, it introduces detailed provisions and obligations for manufacturers, importers and distributors, with enforcement provisions by market surveillance authorities for non-compliant toys.

The current report follows the publication of the evaluation of the Directive presented by the Commission on 19 November 2020. The Rapporteur welcomes the evaluation, whose main aim is to assess the functioning of the Directive since its application, to evaluate whether it is still fit for purpose, its effectiveness and efficiency, whether it is still relevant, coherent, and whether it provides a European added value.

Apart from the evaluation Report, the Rapporteur has also tasked the European Parliament Research Service (EPRS) to prepare a briefing on the Toys Safety Directive (TSD), in order to have further elements to feed his position.

For the purpose of drafting the Report, the Rapporteur has also been in contact with a large range of stakeholders including the European Commission, the toy industry, consumer organisations, standardization bodies, notified bodies as well as Member States representatives.

After careful consideration and taking into account various stakeholders’s views, the Rapporteur considers a revision of the Toy Safety Directive is necessary to improve different aspects examined here under.

CHEMICALS

The Rapporteur believes that the main source of inconsistencies and flaws in the TSD is the set of provisions on chemicals. Indeed, the Directive has been amended 14 times in the period 2012-2019, but several parts related to chemicals requiring an intervention cannot be amended through implementing act, as only a subset of those is allowed by article 46.

Among the parts that cannot be easily amended or cause concerns, the Rapporteur highlights the following:

- The prohibition in principle of chemicals that are carcinogenic, mutagenic or toxic for reproduction (CMR) allows for derogations where the concentration of these chemicals is too high to ensure effective protection. Given the high risk these substances pose to the health of children, the Rapporteur is of the opinion that these derogations should be deleted.

- The Rapporteur believes that limit values for nitrosamines, and for nitrosatable substances in the TSD are too high. Furthermore, the Commission has allowed Germany to have lower limits. At the same time, the EN 71-12:2017 standard includes
lower limits for nitrosamines and nitrosatable substances. The Rapporteur believes that the revision of the TSD should be an occasion to lower the limit value in the legislative text and bring it to the same value as in Germany and the above-mentioned standard.

- The labelling requirements for specific allergenic fragrances in certain experimental toy sets cannot be easily updated when the lists of allergenic fragrances are amended. The revision of the TSD should also tackle this shortage, by making it easier to amend those requirements.

- Certain chemical limits apply only to toys for children under 36 months and for toys intended to be put in the mouth; however, chemical toxicity does not change between 36 and 37 months and after. Several stakeholders, including Member States, have repeatedly called for the elimination of the age distinction for chemicals. The Rapporteur agrees with this position, even more so as there is evidence of circumvention of these provisions by some rogue manufacturers, who can easily indicate that a toy is intended for children above 36 months even when it is clearly not the case, just to avoid complying with the stricter chemical limit values for children under 36 months.

- The TSD’s requirements on chemicals need to be read together with the relevant EU legislation on chemicals, namely the REACH Regulation, the RoHS Directive, the Regulation on Classification, labelling and packaging of substances as well as the Regulation on Cosmetic products. Spreading out the requirements across several pieces of legislation, with sometimes different limit values, can make testing and conformity assessment procedures particularly burdensome for businesses, and might in some cases create the need for a duplication of measuring of substances in order to comply with the different pieces of legislation, as in the case of migration/content limit values. The TSD provides for stricter limit values for some substances - but not for all - compared to other legislation, under the reasoning that children are vulnerable consumers. The Rapporteur therefore believes that it could be reasonable to explore the possibility to consolidate all applicable limit values for toys in one piece of legislation, to make it easier to comply with the requirements.

- Endocrine disruptors are not mentioned in the TSD, but have since its adoption emerged as a particular area of concern, to which Parliament as well as the Council have repeatedly asked the Commission to act. The Commission has committed to address it in its Chemical strategy for sustainability and the Rapporteur therefore thinks the future revision of the TSD needs to take this into account, even though it could be tackled by horizontal legislation.

- The Chemical Strategy for Sustainability highlights the need to introduce or reinforce provisions to take into account the combination effects of chemicals, including for toys. Therefore, the Rapporteur is convinced that the revision of the Directive should be an occasion to do so.

**MARKET SURVEILLANCE**

The Commission evaluation report pointed out that one of the major implementation issue of the TSD is the still insufficient and uneven market surveillance across the EU Member States,
and the high amount of unsafe toys that still circulate on the internal market. According to the 2020 EU Safety Gate annual report, toys are the most notified products in the system, representing 27% of all notifications, (followed by motor vehicles, 21% and electronic appliances, 10%). The Rapporteur welcomes the adoption of Regulation 2019/1020 on Market surveillance and compliance and calls for its swift implementation. The Regulation is expected to contribute to the improvement of market surveillance activities, including in the area of toys. In particular, the Commission has adopted guidelines on article 4 of Regulation 2019/1020, clarifying the tasks of economic operators with particular regard to products sold online and entering the EU market from third countries. These guidelines should contribute to address one of the major problems of toy safety for European consumers: the circulation of unsafe and non-compliant toys on online marketplaces. Moreover, joint market surveillance actions as well as stronger coordination between national authorities should also contribute to improving compliance.

The TSD includes an obligation for Member States to perform market surveillance, including testing toys on the market and verifying manufacturers’ documentation, withdrawing unsafe or non-compliant toys from the market and taking action against those responsible for placing them on the market. A more effective enforcement of the Toy Safety Directive would better protect children and ensure a true level playing field for businesses by providing benefits for responsible manufacturers, importers and distributors, and at the same time impede rogue traders to benefit from circumventing the rules and putting children’s health and safety at risk by placing unsafe toys on the market.

At the same time, new technologies such as blockchain and artificial intelligence can further support national authorities in tracking non-compliant products, through easily accessible and structured information on the product and its traceability. The Rapporteur believes this area is particularly promising and encourages the Commission to explore it further.

E-COMMERCE

The Rapporteur is of the opinion that the need to reinforce market surveillance is strictly linked with the challenges posed by e-commerce to the protection of health and safety of children from dangerous and non-compliant toys entering EU market. The Rapporteur believes that strengthening market surveillance provisions alone will not be sufficient to solve the problem, while the Product safety pledge has proven largely insufficient. In the Rapporteur’s view, the Digital Services Act and the revision of the General Product Safety Directive will play a key role in identifying responsibilities and increasing compliance and traceability of products, while stressing the importance of ensuring coherence and consistency between the different legal instruments mentioned. In the opinion of the Rapporteur, “what is illegal offline should be illegal online”, and despite the positive role of the “know your business customer” principle in the DSA proposal, more should be done to increase the responsibility of online marketplaces to swiftly detect and remove unsafe, counterfeit and non-compliant toys from their platforms and take measures against repeat infringers.

Naturally, it is essential for the Rapporteur that market surveillance authorities cooperate with third countries authorities to facilitate compliance and awareness of EU legislation. The working groups that the Commission has in place in this regard play an important role, but are still insufficient to tackle the problem. In the Rapporteur’s view, one way to improve their effectiveness is to ensure that information monitoring activities is made publicly accessible.
LEGAL INSTRUMENT

The TSD is a maximum harmonization Directive, meaning that Member States are not allowed to introduce stricter provisions than those expressly mentioned in it. However, Germany allows for stricter national provisions on nitrosamines and nitrosatable substances, which has been deemed justifiable by the Commission. In general, the Directive and all its (frequent) amendments require transposition into national legislation within established deadlines. This process has proven to be time and resource consuming, while delays cause market fragmentation as well as hamper children’s protection from dangerous substances. Because of this, and since the Directive acts as a de facto Regulation, the Rapporteur proposes to convert it into a Regulation, which would be easier and faster to amend, in line with the request of several stakeholders and Member States.

The Rapporteur furthermore believes that the revision of the TSD should also include a broader scope for amendments, including mechanical and physical requirements in particular for children under 36 months, limit values for nitrosamines, labelling provisions of allergenic fragrances and CMRs. None of these elements are currently amendable in an easy way, which makes the Directive less effective and unable to adapt to new scientific and technological developments.

Further considerations

Data collection

As also stressed in the Evaluation Report, data collection on the implementation of the TSD is insufficient and uneven across Member States, as the Directive only contains a general monitoring obligation. The revision should constitute an occasion to introduce more specific provisions, including the introduction of indicators, which will allow the proper monitoring of the Directive’s impact on the safety of toys. At the same time, data on injuries are also scarce and unevenly collected across the EU, making it hard to assess the effect of the Directive on the protection of children’s health and safety. This is why the Rapporteur supports the establishment of a true Pan-European Injury Database.

Data on businesses is also lacking, due to the issue of trade secrets. It is therefore difficult to assess the impact on the sector, and the precise impact of changes in terms of increased costs for businesses.

Sustainability

The Rapporteur believes that the TSD revision could be an occasion to introduce sustainable labelling for toys, as also requested by some Member States. This would provide the consumer at the time of purchase with clear and easily understandable information on estimated lifetime, degree of reparability and availability of spare parts, options for repairing the toy, including, where relevant, the availability of necessary software.

Grey zone products

Another point that needs to be addressed in the revision is the “grey zone products”, defined as products that are not toys within the meaning of the TSD but can look like them. The Commission has issued welcomed guidance on this issue, but challenges remain. The constant...
emergence of new toys and non-toy products makes it difficult to clearly assess whether a product is a toy or not, requiring a case by case evaluation. This is why the Rapporteur believes further clarification should be provided on the definition of grey zone products, in order to ensure future-proof legislation that can take into account scientific and technical developments.

**Connected toys**

During the last years, the increased availability of connected toys has raised new challenges and new risks for children that go beyond the concepts of health and safety, and include security and privacy. Connected toys, if not adequately protected with robust cybersecurity provisions, can provide easy access to the child, with the possibility to manipulate or locate them, which is extremely dangerous. Several stakeholders highlighted the need to better tackle this issue, including by the TSD. With the knowledge that connected products are currently regulated by the Radio Equipment Directive, the Rapporteur is open to discussion on whether changes to the TSD are necessary to tackle this issue (which would entail enlarging its scope to the concept of security of the child), or if reinforcing current provisions in the RED, but also in cybersecurity and privacy legislation could be a better option. The Rapporteur calls therefore for proposals for action by the Commission.

**RAPPORTEUR’S POSITION**

The Rapporteur is of the opinion that children, as particularly vulnerable consumers in a delicate age, should enjoy the highest possible level of protection during their playtime. In Rapporteur’s view, this means having legislation in place that allows for flexibility and for quick adaptations to keep pace with new scientific developments.

While acknowledging this can be burdensome for businesses, the Rapporteur believes children’s health and safety are non-negotiable and should be in the interest of all society. The Rapporteur thinks there can be other ways to streamline compliance requirements, such as consolidating all applicable chemical limits values for toys under the same legal instrument, to make obligations clearer.

The Rapporteur considers furthermore that enforcement is key to ensure that only safe and compliant toys circulate in the EU market. In this sense, much can be improved in market surveillance and especially on online marketplaces, where the majority of problems lie.
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION


The European Parliament,


– having regard to Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and

repealing Regulation (EU) No 526/2013 (Cybersecurity Act)\(^7\),


– having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)\(^13\),


\(^7\) OJ L 151, 7.6.2019, p. 15.
\(^12\) OJ L 153, 22.5.2014, p. 62.
\(^14\) OJ L 210, 7.8.1985, p. 29.
\(^15\) OJ L 174 1.7.2011, p. 88.

– having regard to Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food (Food Contact Materials Regulation)\textsuperscript{17},


– having regard to its resolution of 25 November 2020 on addressing product safety in the single market\textsuperscript{21},

– having regard to its resolution of 25 November 2020 towards a more sustainable single market for business and consumers\textsuperscript{22},

– having regard to its resolution of 12 February 2020 on automated decision-making processes: ensuring consumer protection and free movement of goods and services\textsuperscript{23},

– having regard to its resolution of 12 December 2018 on the single market package\textsuperscript{24},

– having regard to its resolution of 4 July 2017 on European standards for the 21st century\textsuperscript{25},

– having regard to its resolution of 4 July 2017 on a longer lifetime for products: benefits for consumers and companies\textsuperscript{26},

– having regard to its resolution of 26 May 2016 on the Single Market Strategy\textsuperscript{27},

– having regard to its resolution of 20 October 2020 with recommendations to the Commission on the Digital Services Act: Improving the functioning of the Single

\textsuperscript{17} OJ L 338 13.11.2004, p. 4.
\textsuperscript{22} OJ C 425, 20.10.2021, p. 10.
\textsuperscript{24} OJ C 388, 13.11.2020, p. 39.
\textsuperscript{26} OJ C 334, 19.9.2018, p. 60.
\textsuperscript{27} OJ C 76, 28.2.2018, p. 112.
Market\textsuperscript{28},

– having regard to its resolution of 20 October 2020 with recommendations to the Commission on a framework of ethical aspects of artificial intelligence, robotics and related technologies\textsuperscript{29},

– having regard to its resolution of 18 April 2019 on a comprehensive European Union framework on endocrine disruptors\textsuperscript{30},

– having regard to its resolution of 10 July 2020 on the Chemicals Strategy for Sustainability\textsuperscript{31},


– having regard to the Commission proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts (COM(2021)0206),

– having regard to the Commission communication of 10 March 2020 on a long-term action plan for better implementation and enforcement of single market rules (COM(2020)0094),


– having regard to the Commission communication of 21 April 2021 entitled ‘Fostering a European approach to Artificial Intelligence’ (COM(2021)0205),


– having regard to the Commission communication of 24 March 2021 on an EU strategy on the rights of the child (COM(2021)0142),

– having regard to Council conclusions of 15 March 2021 entitled ‘Sustainable Chemicals Strategy of the Union: Time to Deliver’,

– having regard to Rule 54 of its Rules of Procedure, as well as Article 1(1)(e) of, and Annex 3 to, the decision of the Conference of Presidents of 12 December 2002 on the

\textsuperscript{28} OJ C 404, 6.10.2021, p. 2.
\textsuperscript{29} OJ C 404, 6.10.2021, p. 63.
\textsuperscript{30} OJ C 158, 30.4.2021, p. 18.
\textsuperscript{31} OJ C 371, 15.9.2021, p. 75.
procedure for granting authorisation to draw up own-initiative reports,

having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0349/2021),

A. whereas the Toy Safety Directive (TSD) was adopted in 2009 to ensure a high level of health and safety for children and improve the functioning of the internal market for toys by removing barriers to trade in toys between Member States;

B. whereas the EU’s strict toy safety framework is designed to ensure children enjoy the safest play experience possible and is widely regarded as a global benchmark;

C. whereas play is recognised as every child’s right by the United Nations Convention on the Rights of the Child, to which all EU Member States are signatories; whereas playing contributes to children’s development, health and wellbeing and is an essential part of growing up; whereas studies show that toys can enrich play and keep children playing for longer;

D. whereas the TSD is a maximum harmonisation directive, meaning that Member States are not allowed to adopt any different requirements than those provided in it; whereas the rules and requirements for toys are, in many cases, stricter than those for other products owing to the vulnerability of the consumers for whom they are designed;

E. whereas the effectiveness of the EU’s TSD is too often undermined by the actions of rogue traders and by online sales of non-compliant products.

F. whereas, despite the lack of comprehensive data on its full impact, the TSD is still largely effective in guaranteeing the free movement of toys in the single market and whereas the number of companies operating in the market since the full application of the TSD increased by 10 % from 2013 to 2017, while the turnover of the EU toy industry has constantly increased since its entry into force; whereas 99 % of companies in the sector are SMEs and the majority of these companies are micro-enterprises;

G. whereas the TSD requires that toys made available on the EU market are safe and ensures a high level of protection of children against hazards caused by chemical substances in toys; whereas quick adaptation of specific requirements and standards might be needed if the scientific and technological developments show the emergence of previously unknown risks and challenges related to toys;

H. whereas in the chemicals strategy for sustainability, the Commission stressed the need to introduce or reinforce provisions to take into account the combination effects of chemicals, including for toys, and to extend the generic approach to risk management to ensure that consumer products, including toys, do not contain chemicals that cause cancers or gene mutations, affect the reproductive or the endocrine system, or are persistent and bioaccumulative; whereas the chemicals strategy for sustainability in addition commits the Commission to assessing the modalities and timing for an extension of the same generic approach, with regard to consumer products, to further harmful chemicals, including those affecting the immune, neurological or respiratory systems and chemicals toxic to a specific organ;

I. whereas improved sustainability is important but the safety of toys should always take
precedence; whereas requirements to improve sustainability should not compromise safety.

1. Welcomes the Commission’s evaluation report on the TSD, aiming at assessing its functioning since its entry into force;

2. Acknowledges the added value of the TSD in improving the safety of children and ensuring an equally high level of protection across the single market, compared to the previous directive, and its role in providing legal certainty and a level playing field for businesses; regrets that some of the non-EU manufacturers that are selling their products in the single market, especially through online marketplaces, do not comply with the EU legislation, and that many toys sold in the EU are still posing significant threats to children;

3. Recognises the key role of standards in allowing for the efficient and agile application of the directive by manufacturers, as well as the role of notified bodies in ensuring compliance when standards are not available or are not applied; stresses the need to increase the number of notified bodies in some regions; highlights that Member States should have open, inclusive, sustainable, transparent and high-quality standards; underlines that standards should also be technology neutral and performance based, ensuring equal conditions of competition among economic operators, in particular SMEs;

4. Stresses the need to develop ambitious standards for adaptive toys, which allow children with disabilities to enjoy and interact with toys they may not otherwise be able to;

5. Notes that some market surveillance authorities face problems in enforcing the provisions contained in Article 11 of the TSD, which obliges manufacturers to mark warnings on toys in a clearly visible, easily legible, understandable and accurate way; underlines that such problems are caused by a lack of specified requirements and related standards; calls on the Commission, therefore, to introduce specific requirements on the visibility and legibility of warnings on toys, in order to enable Member States to enforce these requirements in a uniform way;

6. Recognises that the implementation of and preparation for the proper application of the TSD was a laborious process extending over many years and requiring significant financial investment by European toy manufacturers; stresses the importance of legal stability for the stable development of domestic businesses, especially small and medium-sized family enterprises;

7. Notes, however, that inconsistencies that call for a revision of the TSD remain; asks the Commission, therefore, to continue its evaluation process and perform an exhaustive impact assessment in order to check whether and how to address them; stresses that further efforts are needed, especially from law enforcement authorities, to ensure that strict safety requirements are applied by all economic operators who place toys on the EU market; underlines the need to take into account the challenges, the specific risks and the negative impact on companies producing compliant toys, arising from the sales of non-compliant, unsafe and counterfeit toys, which mostly come from non-EU countries, and to address risks coming from the use of new technologies;

Chemicals
8. Recognises the flexibility and relatively future-proof nature of the current TSD, given that in the period 2012-2019, the directive was amended 14 times to adapt to the new scientific evidence pointing out previously unknown risks for children, especially in the area of chemicals; is concerned, however, that problems remain that can jeopardise children’s safety and that can only partially be solved through implementing acts;

9. Highlights the need for toys that are placed on the EU market to comply with the TSD, as well as the relevant EU legislation on chemicals, in particular the REACH Regulation and the RoHS Directive, as well as the Cosmetics Regulation, the Food Contact Material Regulation, the Batteries Directive, the CLP Regulation and the POPs Regulation, regardless of where they are manufactured;

10. Stresses that spreading out requirements across several pieces of legislation, and providing for different limit values, can be burdensome, especially for SMEs, and can in some cases necessitate a duplication of the measuring of substances, as in the case of migration and content limit values; calls on the Commission, therefore, to consider consolidating all applicable limits for toys to uniform values, justified by further assessment, in one piece of legislation, in order to streamline conformity assessment and to make it easier and less burdensome to comply with the requirements; calls on the Commission, in addition, to consider streamlining access to information, including through an online portal, in order to clarify what is required in which circumstances and to facilitate the navigation of these different pieces of legislation for market surveillance, economic operators and consumers.

11. Is concerned by the fact that the derogation from the prohibition of chemicals that are carcinogenic, mutagenic or toxic to reproduction (CMRs) set out in the TSD allows in specific cases for the presence of those chemicals in concentrations that appear to be too high to ensure the protection of children; calls on the Commission to conduct an impact assessment in order to analyse if generic limits for derogated CMRs in the TSD should be reduced, following the recommendations made by the relevant scientific committee, and to explore if, in line with the chemicals strategy for sustainability, the possibility to derogate from the rules on the presence of CMRs that are inaccessible to the child in toys should be deleted and if adequate provisions to avoid children’s exposure to dangerous, toxic, harmful, corrosive and irritant substances should be made; calls on the Commission to take into account children’s combined exposure to chemicals as well as potential low-dose effects;

12. Underlines that lower limit values in toys for children below 36 months or intended to be placed in the mouth for chemicals such as nitrosamines and nitrosatable substances set out at national level compared to those established in the TSD create inconsistencies, even when justified by the Commission; notes, however, that all EU children should enjoy the same high level of protection; acknowledges that this limit value cannot be amended by an implementing act but would require a legislative procedure; calls on the Commission, therefore, to evaluate the need for adapting the limit value to the strictest value in force at national level in a revision of the TSD, following an exhaustive impact assessment, and for providing for a flexible mechanism that allows for quick adaptation of the limit values for dangerous chemical substances and avoiding a situation whereby different values are set at national level, thus ensuring a level playing field in the internal market to the benefit of consumers and economic operators; underlines the need to maintain the in-depth scrutiny by Parliament of the implementing acts to be adopted.
with that aim;

13. Welcomes the commitment of the Commission to extend the generic risk approach on CMRs to endocrine disruptors, on the basis of the definition of the World Health Organization (WHO), and to analyse in the impact assessment whether to apply it in a future revision of the TSD to ensure that endocrine disruptors are banned in toys as soon as they are identified, as well as to consider introducing horizontal legislation with that aim, as repeatedly requested by Parliament and the Council, while respecting the ‘one substance, one assessment’ principle contained in the chemicals strategy for sustainability; welcomes in this regard the commitment to assess the extension of this approach to chemicals affecting the immune, neurological or respiratory systems and to chemicals toxic to a specific organ, in order to guarantee a high level of protection against these chemicals as well as to ensure a future-proof regulatory response to their use in toys, consistent with the Commission’s intention to prioritise all uses of these chemicals for REACH restrictions;

14. Is concerned that the stricter provisions for chemicals in toys intended for children aged under 36 months do not take into account the fact that older children remain vulnerable to dangerous substances; notes that this distinction can result in manufacturers circumventing the provisions by indicating that the toy is intended for children above 36 months even when it is clearly not the case; stresses that several stakeholders, the Commission and Member States have indicated that this distinction is clearly inadequate, since it may create loopholes and may limit the effectiveness of the TSD, and have asked for it to be eliminated; calls on the Commission, therefore, to analyse this issue within the impact assessment for the revision of the TSD and in full accordance with the latest scientific evidence, to decide whether this distinction needs to be abolished and to set specific limit values for chemicals in toys; is of the opinion that when scientific evidence emerges showing that a chemical is dangerous for children, its use should be restricted in toys as well as in all child-related products;

**Market surveillance and new technologies**

15. Notes that the TSD contains an obligation for the competent authority of the Member States to perform market surveillance taking due account of the precautionary principle, to test toys on the market and verify manufacturers’ documentation with a view to withdrawing unsafe toys and taking action against those responsible for placing them on the market; is concerned that the effectiveness of market surveillance under the TSD is limited, while it remains key to protecting the health and safety of children at risk, and that it undermines the level playing field and the competitiveness of economic operators that comply with the legislation, to the benefit of rogue traders, who do not apply EU rules; notes that difficulties are still reported in obtaining information and documentation from some economic operators;

16. Welcomes the adoption of Regulation (EU) 2019/1020, which aims to improve market surveillance by strengthening and harmonising controls by national authorities to ensure that products entering the single market, including toys, are safe and comply with the rules, and calls on the Member States to implement it swiftly and to equip customs and market surveillance authorities with adequate human, financial and technical resources in order to increase the number and effectiveness of controls, so that effective enforcement of the TSD can be ensured and the proliferation of unsafe and non-
Calls on the Commission to assess the Member States’ implementation and application of Regulation (EU) 2019/1020 and to provide active support to Member States in the enforcement of national market surveillance strategies; urges the Commission to adopt implementing acts laying down benchmarks and techniques for checks on the basis of common risk analysis at EU level, in order to ensure consistent enforcement of EU law, strengthen controls on products entering the EU market and avoid divergences and achieve an effective and uniform level of such controls; calls on the Commission to adopt implementing acts specifying the procedures for the designation of EU testing facilities, in line with Article 21 of Regulation (EU) 2019/1020;

Calls on the Commission to continuously explore possibilities for using new technologies such as e-labelling, blockchain and artificial intelligence with a view to detecting unsafe products, mitigating risk and improving compliance with the TSD, as well as facilitating the work of market surveillance authorities by providing easily accessible, up-to-date, structured and, if possible, digital information on products and their traceability in the supply chain;

Reiterates the limited funding and human resources, which in recent years has reduced the effectiveness and reach of many market surveillance authorities; welcomes, in this connection, the adoption of the single market programme and the introduction of a specific objective, with a specific budget line and dedicated resources for market surveillance, which will contribute to supporting Member States’ actions in ensuring that only safe and compliant toys enter the EU market;

Underlines that effective market surveillance is essential in order to detect unsafe toys and ensure the proper application of the TSD; calls on the Member States, therefore, to step up the coordination of their market surveillance activities, including through the exchange of best practices and the digitalisation of their systems, and to strengthen collaboration between market surveillance authorities and other authorities such as customs, telecommunication and data protection authorities; calls on market surveillance and customs authorities, therefore, to actively share experiences and to step up coordination and cooperation among themselves, including at cross-border level, so that the swift transfer of information on unsafe toys can be enabled and imports of unsafe toys can be effectively stopped; stresses that maintaining constant and effective controls throughout the EU on toys entering the internal market remains essential in order to ensure that they comply with EU requirements; calls on the Commission to organise and finance joint market surveillance actions, including training activities, to step up enforcement of the Union legislation on toys, and to cooperate with the competent authorities of non-EU countries to exchange information on unsafe toys; calls on the Member States, moreover, to set minimum sampling rates or checks to improve enforcement;

Highlights that in order to detect unsafe toys more efficiently the market surveillance authorities should carry out mystery shopping on a regular basis and at least once a year, including on online marketplaces, in particular because toys are the products that are notified most often on the EU rapid alert system for dangerous non-food products (Safety Gate);
22. Is concerned by the new vulnerabilities and risks posed by connected toys, in terms of child safety, security, privacy and mental health; highlights the importance of safeguarding children’s privacy when using connected toys; is concerned that some of these toys already placed on the EU market have shown inadequate security, as well as limited or no safeguards against cyber threats; encourages producers of connected toys to integrate safety and security mechanisms in their toys by design; calls on the Commission to explore different options for action with respect to the level of risk and the proportionality principle, such as extending the scope of the TSD to include provisions on privacy and information security, adopting horizontal legislation on cybersecurity requirements for connected products and associated services, such as the European cybersecurity resilience act, or reinforcing the relevant horizontal legislation, such as the Radio Equipment Directive, as well as the GDPR, while involving Parliament in its choices;

23. Is concerned that consumers respond poorly to recalls, and that unsafe toys continue to be used by children even though they have been recalled; asks the Commission, therefore, to publish guidelines on recall procedures, including a checklist with concrete requirements, and asks the online marketplaces to establish effective mechanisms to make sure they can reach their users, buyers and sellers in order to inform them as quickly as possible when recalls are necessary and to increase the number of consumers reached by recalls;

24. Recognises the positive role of e-commerce, including the role of online marketplaces, which have enabled the development of EU toy manufacturers; stresses, in this context, the growth in these businesses’ activities both inside and outside the EU; highlights that the development of e-commerce benefits consumers but also poses challenges for market surveillance authorities in ensuring the compliance of products sold online; notes that many products bought online fail to conform to EU safety requirements and is concerned by the high number of dangerous toys sold online by rogue sellers; considers it necessary to eliminate the sale of non-compliant and dangerous toys online;

25. Welcomes the guidance of the Commission on Article 4 of Regulation (EU) 2019/1020, which clarifies the tasks of economic operators, in particular with regard to products sold online and placed on the EU market from non-EU countries; highlights the need to tackle non-compliant products sold directly to consumers from non-EU countries through online marketplaces; recalls that only safe products can be put on the EU market by economic operators; highlights that compliance with EU rules by all economic operators is key to ensuring the safety of children and providing a level playing field for companies; calls on market surveillance and customs authorities to step up their cooperation, including the exchange of information on non-compliance findings, and perform robust enforcement actions to stop rogue traders from exploiting the EU market;

26. Highlights the added value of the ‘know your business customer’ principle to increase compliance and traceability of toys sold online; points out to the voluntary nature of the product safety pledge and the limited participation of market operators therein; regrets that the product safety pledge has shown limited effects so far;
27. Stresses that online marketplaces can play a tremendous role in limiting the circulation of unsafe toys; believes therefore that they should be obliged to take more responsibility in ensuring the safety and compliance of toys sold on their platforms, in particular in identifying and removing non-compliant toys, also by consulting the Safety Gate system, and cooperating effectively with the market surveillance authorities on removing the non-compliant toys and preventing the reappearance of unsafe toys; insists in the strongest terms, in this sense, that it is fundamental to ensure effective and predictable enforcement as well as full consistency between the TSD and different instruments such as the Digital Services Act, the Artificial Intelligence Act, the General Product Safety Regulation and the future legislative act revising the Product Liability Directive, in order to guarantee the highest standards on safety and fundamental rights; calls for solutions allowing for the notification of non-compliant toys by consumer organisations and trusted flaggers;

28. Highlights the need to step up cooperation with non-EU countries with a view to preventing unsafe and non-compliant toys from entering the EU market, while ensuring a level playing field for businesses; calls on the Commission to publish information on its monitoring activities;

**Legal instrument and way forward**

29. Calls on the Commission, since the TSD acts as a de facto regulation, to consider whether its revision could be the opportunity to convert it into a regulation in order to enhance its effectiveness and efficiency and avoid implementation inconsistencies among Member States and market fragmentation;

30. Calls on the Commission to assess the need for a broader scope for amendments in the future revision, supported by an in-depth impact assessment to analyse if and how mechanical and physical requirements, CMRs, limit values for nitrosamines and nitrosatable substances, as well as labelling provisions for allergenic fragrances and dangerous chemicals, could be inserted in the future revision of the TSD, in order to allow for easy and flexible modifications;

31. Is concerned that some producers avoid complying with the TSD by claiming that their products are not toys, while they are clearly used as such; highlights that the guidance documents from the Commission are helpful to clarify if the product is a toy or not and to ensure the harmonised implementation of the TSD to the benefit of both market surveillance authorities and economic operators; stresses, nonetheless, that there are still products within the ‘grey zone’ and therefore calls on the Commission to solve this problem within the definition of toys in the future revision of the TSD; highlights the need for an open and constructive dialogue with relevant stakeholders to that end;

32. Highlights the important role of toys in children’s development and skill formation, and the pedagogical support they give for the performance of new tasks and the improvement and learning of skills from a very young age; calls on the Commission to revise the toy directive with a view to improve toy safety while at the same time reducing the burden and the administrative and legal costs to manufacturers in order to ensure a clear path to safe and affordable toys for all children in the European Union;

33. Considers that consumers and the actors in value chains need information to drive more sustainable behaviour; calls on the Commission, therefore, to analyse in the impact
assessment whether the durability and reparability of toys can influence their safety and if such an influence is proven, to then analyse whether better information on toys’ durability and reparability could be added in the labelling provisions in a proportionate and non-restrictive manner; believes in this regard that innovative and digital solutions could be used to make this information available to consumers, ensuring that safety information is clearly identifiable, while avoiding excessive burdens on companies and minimising packaging materials;

34. Considers that warnings and safety information are important for consumers; notes that additional labelling requirements should be kept to a minimum to avoid attention being diverted from this; calls on the Commission to assess the possibility of indicating conformity information not intended for the final consumer electronically;

Data

35. Highlights that the lack of consistent EU-wide statistics on accidents caused by toys has made it difficult to quantitatively assess the level of protection granted by the TSD and to inform standardisation work on toys; believes that insufficient coordination and funding at EU level is a root cause of the absence of consistent data and calls on the Commission to address this in a future revision of the directive; calls on the Commission to assess the possibility of establishing a pan-European accident and injury database with a special section for toys, that is public, user-friendly and accessible for consultation by public authorities, consumers and manufacturers, and that allows for introduction and collection of information on accidents and injuries that occur because of dangerous toys, including those sold online; considers, moreover, that an additional option would be by using indicators and data such as those gathered from the Information and Communication System on Market Surveillance, Safety Gate and joint actions to assess the efficiency of the TSD, and invites the Commission to assess the possibility of establishing digital solutions which could improve traceability along the supply chain and contribute to a higher safety level for toys;

36. Calls on the Member States to step up their data collection on the TSD, which is now uneven, not representative and incomplete, and to exchange information about risks and vulnerabilities in relation to toy safety; calls on businesses to step up cooperation with Member States, sharing more data on toy-related accidents in order to enhance children’s safety and to improve trust in toys placed on the internal market;

37. Calls on the Commission to use the opportunity provided by the TSD revision to develop indicators to monitor its correct implementation by Member States and its overall effectiveness; calls on the Commission to improve the collection of data to be regularly provided by Member States, market surveillance authorities and notified bodies; recommends that the Commission elaborate a general report at EU level based on the national reports, and make them public and easily accessible by all interested parties;

38. Instructs its President to forward this resolution to the Council and the Commission.
ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the draft report:

<table>
<thead>
<tr>
<th>Entity and/or person</th>
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<tr>
<td>Toy Industries of Europe (TIE)</td>
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<td>TIC Council</td>
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<td>European Committee for Electrotechnical Standardization (CENELEC)</td>
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# INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

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<th>9.12.2021</th>
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| **Result of final vote** | +: 44  
| | --: 0  
| | 0: 0  |
| **Members present for the final vote** | Alex Agius Saliba, Andrus Ansip, Pablo Arias Echeverría, Alessandra Basso, Brando Benifei, Adam Bielan, Hynek Blaško, Biljana Borzan, Markus Buchheit, Andrea Caroppo, Anna Cavazzini, Deirdre Clune, David Cormand, Carlo Fidanza, Alexandra Geese, Sandro Gozi, Maria Grapini, Svenja Hahn, Virginie Joron, Eugen Jurzyca, Arba Kokalari, Marcel Kolaja, Kateřina Konečná, Andrey Kovatchev, Jean-Lin Lacapelle, Maria-Manuel Leitão-Marques, Morten Lokkegaard, Adriana Maldonado López, Antonius Manders, Beata Mazurek, Leszek Miller, Anne-Sophie Pelletier, Miroslav Radačovský, Christel Schaldemose, Andreas Schwab, Tomislav Sokol, Ivan Štefanec, Róża Thun und Hohenstein, Tom Vandenkendelaere, Kim Van Sparrentak, Marion Walsmann, Marco Zullo |
| **Substitutes present for the final vote** | Clara Aguilera, Vlad-Marius Botoș, Christian Doleschal |
## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

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<td>Andrus Ansip, Vlad-Marius Botos, Sandro Gozi, Svenja Hahn, Morten Lokkegaard, Róža Thun und Hohenstein, Marco Zullo</td>
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<td><strong>S&amp;D</strong></td>
<td>Alex Agius Saliba, Clara Aguilera, Brando Benifei, Biljana Borzan, Maria Grapini, Maria-Manuel Leitão-Marques, Adriana Maldonado López, Leszek Miller, Christel Schaldemose</td>
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Key to symbols:
+ : in favour
- : against
0 : abstention