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# АЗАМАТТЫҚ ҚҰҚЫҚ ЖӘНЕ АЗАМАТТЫҚ ПРОЦЕСС ГРАЖДАНСКОЕ ПРАВО И ГРАЖДАНСКИЙ ПРОЦЕСС CIVIL LAW AND CIVIL PROCEDURE

UDC 347:366 (1-87)

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## **Legislation about consumer rights protection in the foreign countries: rather-legal analysis**

The article analyzes Consumer Protection Legislation of foreign countries, in particular, the United States, Great Britain, European Union member states and the Commonwealth of Independent States, the Eurasian Economic Union in accordance with the UN Guidelines for Consumer Protection (1985). The world experience in the field of consumer protection, legislative acts regulating consumer rights and the activities of public organizations in this area are also analyzed. The authors deal with the legal mechanisms for consumer rights' protection and restoration in Kazakhstan in cases of defective goods sale, the consumers' right to exchange or return non-conforming goods in comparison with the 2015 UK Consumer Rights Act. The authors concluded that legislation of advisory nature adopted within the CIS and the EEC framework is intended to define general legal and institutional basis for the consumer protection, and they are not imperative. The level of ensuring consumer rights of citizens in the CIS countries is not in line with international standards yet. In this regard, the authors propose to develop a new legal mechanism for the consumer rights protection.

*Keywords:* consumer, consumer's right, consumer rights protection, foreign countries, The Republic of Kazakhstan, legislation, civil code.

### *Introduction*

Consumer rights are an integral part of social and economic human rights. In the modern world, legal mechanisms for consumer rights realization have been created in every state. Consumer protection laws have been in many countries for a relatively long time, primarily industrialized ones. The huge ranges of goods and products, various services entered a market since economic development. The manufacturers were aimed only at making a profit, rather than meeting customers' needs and produced their goods and products with serious violations. All this led to the need for consumer legal protection.

In the USA in 1899, the national consumer league was founded. This organization took an active part in quality control of various goods, attracting the vast populace to the problem. In 1935, the consumer union has been founded, including more than five million people. In 1968, the consumer federation was founded, the purpose of which was to protect customers from a poor quality of various goods (especially essentials), as well as from overpriced service prices at medical centers, various medical products and food [1].

The federal consumer union was formed in France in 1951. There were enough consumer associations during this period in England, Belgium, Switzerland and other countries. They provide information to consumers and act on their behalf in various organizations; carry out intermediary functions; sue in courts on behalf of consumers when their rights are violated [2].

It was the President of the United States, John Kennedy, who spoke on consumer rights on March 15, 1962 in Congress for the first time. In his speech, the President proclaimed four inalienable rights of citizens as consumers: the right to security, the choice of goods, the product information and the right to be heard.

«The Bill on Consumer Rights» was adopted in the USA on the same day. As Eike von Hippel notes, «since the famous President Kennedy addressed the consumers on March 15, 1962, in which he declared certain basic consumer rights, the global consumer protection movement developed and achieved great success» [3; 37].

Today, consumer rights protection is still an urgent problem, as consumer fraud, due to the absence or misrepresentation of information on products in our country, leaves a lot to be desired. Today, consumers cannot compare the quality, price and other terms of products offered due to the expansion of products' range and manufacturing techniques. The level of public awareness has decreased due to new forms of goods' sales such as self-service stores, online trading, deceptive advertising. The weak consumer protection in domestic legislation should also be noted, rather than product manufacturers. The protection of entrepreneurship by the state leads to the impairment of consumer rights to purchase quality goods at a reasonable price.

#### *Methods and Materials*

When carrying out research on the topic of this article, methods of comparative legal analysis of legal regulations enshrined in legislations of foreign countries and the Republic of Kazakhstan were applied. Literature sources, international rules and legal acts of various countries that ensure the consumers' rights are also subjected to analysis.

#### *Results*

In the middle of the twentieth century, the consumer law branch was formed in developed countries. In many countries, there were special laws on consumer protection, and in some countries, rules on consumer protection were enshrined in the civil codes rules. Thus, the Federal Consumer Credit Protection Act was adopted in the USA (1968). Australia's Trade Practices Act (1974) provides for consumer protection along with measures to restrict competition and unfair competition. The Law on Consumer and User Protection was adopted in Spain as well (1984) [4].

In 1973, the European Union (EU) adopted the Charter on Consumer Protection at the 25<sup>th</sup> session of the Consultative Assembly. Then, the European Act, ratified by the parliaments of all countries, entered into force since July 1, 1987.

Nevertheless, the need of society for high-quality services and goods has constantly increased, which has led to the need to adopt special regulatory legal acts to ensure the safety of manufacturing equipment, substances and materials used in production. The adoption of these laws forces entrepreneurs to raise the level of product quality or services. For example, Germany has the Law on Production Equipment Safety and the Law on Protection against Hazardous Substances (1980), and Switzerland has the Law on Technical Installation Safety (1978) [5].

Some countries have adopted omnibus acts that cover all aspects of consumer protection. For example, the Mexican Consumer Protection Act of 1975 contains regulations on advertising, guarantees, informational duties and responsibilities of enterprises, credit institutions and external (entrance) door services, gives broad powers to executive branch, including consumer goods pricing. The law establishes the position of a federal lawyer, as well as the National Consumer Institute, whose task is to provide information and education to consumers [6].

There are new types of sales and purchase agreement in the civil code: sale on approval; experimental sale; sale with right of redemption, etc. At that time, the purpose of consolidating such regulations in civil codes and special laws was to protect consumers' rights and honesty in contractual relations, fight against false advertising and prohibition on the dominant position abuse [2].

On April 16, 1985, the General Assembly adopted Guidelines in 39/248 resolution for the first time that defined the following basic consumer rights: consumer access to essential goods and services; protection of vulnerable and disadvantaged consumers; consumer protection from risk factors affecting their health and safety; promoting compliance and protecting the economic interests of consumers; consumer access to relevant information necessary to make a reasonable choice in accordance with individual requests and needs; consumer education, including the environmental and socio-economic consequences of their consumer preferences; availability of effective mechanisms for resolving consumer disputes and consumer remedies; relevant groups or organizations and the opportunity for such organizations to present their opinions in the decision-making process affecting their interests; ensuring sustainable consumption patterns; ensuring consumer protection in electronic commerce at a level not lower than that provided for other forms of trade; protection

of consumer personal information and freedom of global exchange of information [7]. These rights formed the basis of national legislations and, since that time, the problem of consumer protection has had an international significance.

Consumer rights in England are governed by the Consumer Rights Act of 2015. The law establishes the following basic requirements: goods and services must be of adequate quality; match the description; be suitable for specified purposes; serve a term specified for this group [8].

If there is a defect in goods, the Law of England establishes a 30-day appeal period for 100 % refund from the date of purchase and the seller's refund date is set within 14 days after the claim. If defects are found after 30 days from the date of purchase, the seller is obliged to repair once at his own expense or replace the goods within 6 months. The six year period is established for some types of goods. If the goods after the six months expiration have become unusable, then a consumer has the right to compensation for the goods' cost minus a percentage for the time of using the goods (degree of wear).

The Law of the Republic of Kazakhstan «On Protection of Consumer Rights» of May 4, 2010 establishes similar consumer rights, however, the time for making claims by consumers are less than in European countries. According to Article 17 of the Law concerning the goods for which the expiration dating as well as the warranty period is set, the consumer has the right to make claims on goods' defects, if they are found during the shelf life of goods or the warranty period from the moment of goods' purchase. If the goods have no warranty period or expiration date, claims related to the goods' defects may be presented by the consumer, provided that the defects in sold goods were found within two years from the moment the goods were given to the consumer, if longer periods are not established by the legislation of the Republic of Kazakhstan or the contract [9].

The right of consumers to exchange or return goods of good quality is also the same in both England and Kazakhstan, and the exchange period is 14 days (Article 14 of the Law of the Republic of Kazakhstan «On Protection of Consumer Rights»).

After analyzing the regulations of foreign and domestic legislation on eliminating goods' defect rules, it should be noted that they correspond to the international standards, in particular clause 19 of the UN Guidelines for Consumer Protection.

According to Consumer Rights Act of 2015, services must fully meet customer requirements. When there are defects in work performed or the service, the consumer has the right to demand compensation. If a seller (maker) refuses to return goods (services) cost, the consumer applies to court. If the cost of goods (services) is less than 10 000 pounds, such disputes are considered by small claims courts. Also, such disputes can be settled by alternative dispute resolution methods (arbitrators, mediators, ombudsmen, etc.).

In Kazakhstan, according to Article 35 of the Law «On Protection of Consumer Rights», the defects in work (services) must be eliminated within 10 calendar days from the moment of asserting the relevant claims, if another period is established by the contract. The consumer has the right to terminate the contract and claim damages, if defects in work performed (service rendered) were not eliminated by the contractor within a specified period, or if deviations in work (service) from the contract terms or other defects in work (service) are significant and irremediable.

If a seller (producer, maker) does not respond to the claim within 10 calendar days or refuses to eliminate defects and compensate for the loss (damage) caused voluntarily, the consumer has the right to apply to court (Art. 22 of the Law).

In accordance with subparagraph 1 of Article 145 of the Civil Procedural Code of the Republic of Kazakhstan, claims on money recovery are reviewed in court using the simplified procedure within a month, if the amount of the claim does not exceed 200 monthly calculation indicators (MCI) [10]. The parties are also offered judgement with the help of a mediator or arbitrator. Thus, in accordance with the international standards, there is a legal complaint review mechanism for an effective dispute resolution, providing alternative dispute resolution services in Kazakhstan. However, the standards of customer service quality do not fully correspond as well as due to a high cost of payment for mediator or arbitrator services as it is financially unavailable to any citizen.

Consumer protection in the EU is the responsibility of the highest executive body - the European Commission and the responsible body is the European Commission's Directorate-General for Health and Consumer Protection. The task of strengthening consumer rights in the EU is the Strategy focus area. In addition, a special place among the priorities of the Strategy is given to the legislation improvement of consumer protection and, in particular, its harmonization in the EU space [11].

The European Union follows «the minimal harmonization» principle in order to improve consumer protection legislation. This means that only a lower level of requirements is established at the EU level, and EU member states are granted the right to establish stricter rules [11].

Since 2011, the Consultative Council for Consumer Rights Protection of the CIS Member States has been operating within the CIS, whose main task is to form an effective consumer policy in the CIS member states in accordance with the international standards.

The nonbinding legislation «On General Principles of Consumer Protection Regulation in the CIS Member Nations of the Interparliamentary Assembly of May 13, 1995 was developed within the Interparliamentary Assembly of the CIS Member Nation [12]. The governments of the member states concluded the Agreement on the main areas of cooperation of the CIS member states in the field of consumer protection of January 25, 2000 [13], as well as the Agreement on cooperation of the CIS member states in the field of consumer legal education (Minsk, October 28, 2016) [14].

In the CIS member states, the consumer rights are enshrined in the states' constitutions, in special laws on consumer protection, as well as in various legal rules (civil, administrative, criminal). Special laws on consumer protection have been passed in most CIS member states.

In Russia, the basis of consumer protection is the Russian Federation Law «On Protection of Consumer Rights» of February 7, 1992 No. 2300-1 [15]. The relations with consumers are regulated by other federal laws, and other regulatory legal acts of the Russian Federation adopted in accordance with them too. Also, there is a Federal Law «On the basis of state regulation of trading activity in the Russian Federation» of December 28, 2009 No. 381-FL, which defines the legal basis of state regulation and control in trading field.

There are Laws «On Consumer Right Protection» in the CIS Members which are in force: the Law No. 1113 «On Protection of Consumer Rights» of the Republic of Azerbaijan dated from September 19, 1995; the Law No. RL-197 «On Protection of Consumer Rights» of the Republic of Armenia dated from July 26, 2001; the Law «On Protection of Consumer Rights» of the Kyrgyz Republic dated from December 10, 1997; the Law No. 221-I «On Protection of Consumer Rights» of the Republic of Uzbekistan dated from April 26, 1996; the Law No. 72 «On Protection of Consumer Rights» of the Republic of Tajikistan dated from December 9, 2004; the Law No. 1023-XII «On Protection of Consumer Rights» of Ukraine dated from May 12, 1991, the Law No. 90-L «On Protection of Consumer Rights» of the Republic of Belarus dated from January 9, 2002.

The Government of the Republic of Belarus adopted the retail trade Rules for certain types of goods and food service, rules for goods sale according to samples, rules for trading in markets, rules for consumer services, rendering of telecommunication services and other services to the population in the development of this Law. The Law No. 231-L «On Trade» dated from July 28, 2003 is also in force in the Republic of Belarus. In addition, the Law of the Republic of Belarus «On Protection of Consumer Rights of housing and utilities services» has come into force since January 29, 2009.

The Law No. 105-XV «On Protection of Consumer Rights» dated from March 13, 2003, as well as the Law No. 422-XVI «On General Product Safety» dated from December 22, 2006, are in force in the Republic of Moldova. «The Exchange of Non-Food Products and Warranty Periods Rules» were approved by the Decree of the Government of the Republic of Moldova of December 8, 2003 No. 1465 [11].

The civil law regulations shall prevail in regulating consumer's attitude in the CIS Members, since they establish rules for concluding contracts in trading field and rendering of paid services to consumers and civil and legal responsibility for a due performance of duties. Also, attitudes towards consumer rights protection are regulated by national legislation - antitrust, housing and transport legislation, and by laws regulating the quality and safety of food (for example, technical safety), etc.

The Protocol on the implementation of coordinated policy of consumer right protection was adopted within the framework of the Eurasian Economic Union (hereinafter the EEC) in accordance with the Treaty on the Eurasian Economic Union (entered into force on May 29, 2014). It defines principles for the implementation of coordinated policy of consumer right protection and its main directions by Member States. In order to implement this Protocol, the Board of the Eurasian Economic Commission developed recommendations for the EEC Members to apply measures aimed at improving interaction efficiency between the authorized bodies in the field of consumer protection: Recommendation of the Board of the Eurasian Economic Commission of March 22, 2016 No. 2 «On application of measures aimed at improving interaction efficiency between the authorized bodies in the field of consumer protection by Members of the Eurasian Economic Union»; Recommendation No. 27 of the Board of the Eurasian Economic Commission of November 21,

2017 «On General approaches to the implementation of coordinated policy in the field of consumer protection on goods (work, service) realization by Members of the Eurasian Economic Union» remotely.

The Eurasian Economic Commission of the EEC has only recommendatory and advisory powers in consumer protection matters. The competence of the EEC is limited by technical regulation, which establishes absolute requirements for product safety.

In general, the specific character of consumer protection laws of the CIS Members is the multiplicity of legal acts regulating relations developing in this area. Legislative acts of an advisory nature, adopted within the framework of the CIS and EEC, are intended to define the general legal and organizational basis for consumer protection implementation, but cannot provide harmonization of the applicable regulations and national legislation rules, as model acts are not mandatory, they are advisory acts for member-states.

#### *Discussion*

According to analytical materials of the Law Policy Research Center, public relations, related to consumer rights, are characterized by an economically unequal position of the parties (entrepreneurs and consumers), and are also associated with the monopolistic (dominant) position of business entities and dependent consumer position in the Republic of Kazakhstan [16]. Perhaps we can agree with such conclusions, because goods' non-competition on the market leads to the prejudice of consumer rights. Basically, monopolists and almost all businessmen force consumers to conclude adhesion contracts, thereby violating the principle of freedom to conclude civil law contracts.

Lawyers believe that individual legal relationships are more governed by official lists, rather than freely concluded contracts. When making official lists, large companies include conditions in it infringing the interests of an ordinary counterparty (for example, releasing a seller or service company from liability for harm to the life, health or counterparty's property during the conclusion of the Contract) [17].

In such cases, the consumer rights can be protected by declaring the transaction invalid. For example, judicial authorities of Western countries use the rules of treaty law regarding the invalidation of such agreements due to defects of will. In these cases, a professional merchant is fully responsible for the poor quality goods or services, and in such cases the process of proving seller's guilt is greatly facilitated [18; 43].

Also, in order to limit sellers' monopoly and service providers, the state makes adjustments to the current legislation. For example, in Sweden, the law prohibiting unfair contracts has been in effect since 1971. In England, such rules are included in the Fair Trade Act of 1973 and in the Unfair Contract Terms Act of 1977. In the United States in 1975, the Federal Law on Simple Contractual Stipulation (it is also called the Magnuson-Moss Law) was adopted. In Finland, the law (Article 1, Chapter 3 of the Law «On Protection of Consumer Rights» of January 20, 1978) holds contractual provisions invalid that release the seller or service companies from liability to the buyer or reduce its size or give the right to unilateral termination of the adhesion contract in cases not provided by law [18; 45].

In Kazakhstan, we can still see advertisements at the counters and shop windows and markets of this kind: «Goods cannot be exchanged and returned». If there is any defect in goods, the seller justifies the refusal to exchange and return money so that everything worked at the time of purchase and advises to contact the service center. In Kazakhstan, justice can only be achieved in courts. And in order to apply to court, the consumer needs to get all necessary evidence, has to incur significant costs for doing an examination and for advocacy which sometimes exceed the cost of low-quality goods.

In foreign countries, in particular, in European countries, consumer protection is always a priority and is focused on by European politics. The consumer protection policy covers food safety, enforcing rights and interests of citizens. Sellers often make concessions, satisfying the requirements and claims of a buyer in order to ensure reputation.

As L. Kozlovskaya notes, most of the UK trading and service companies quite often make concessions for ensuring their reputation, even when customers can only ask, but not insist. So, the consumer rights in Britain are not restricted only by law. Sometimes, even if the customer is not right, the most forward-looking sellers can meet their needs and compensate, thereby winning customer loyalty and improving their image in a competitive market [8]. In addition, in developed foreign countries, consumers are provided with precise and reliable information about products, a guarantee of quality and safety for health. The price corresponds to the goods' quality or services rendered, and thus, the consumer is given a choice depending on his desires and paying capacity.

The CIS Economic Council draws attention to the fact that there are many gaps in the antitrust laws in member states and there are no guarantees of fair competition of private business entities. The situation gets

worse due to poor-quality and adulterated goods in the consumer's market. As a result, the right of consumers to the quality and safety of goods sold and services provided is not ensured and people's quality of life becomes worse. It is proposed to improve administrative and legal procedures and ways to protect consumers and manufacturers from counterfeit and falsified products [11].

Despite the fact that the Advisory legislation was adopted within the CIS (1995) and agreements were concluded in the field of consumer rights protection (2000, 2016), «the level of uniform legislative consolidation of the basic rules of consumer rights protection has not been achieved within the CIS yet: the uniform model law on consumer rights protection has not been developed, which could be implemented in the legislation of the CIS Members» — Kletchenkova M.M. notes [19; 43].

According to I.S. Shlyakhtin, this is explained by the fact that it is quite difficult for individual states to agree to conclude an international treaty establishing regulations that differ from those of national legislation. The most effective model is harmonization through binding acts of an interstate integration association, which set out specific regulations aimed at protecting the rights and interests of consumers to be implemented in the national legislation of the member states [20; 50]. Further, the author cites directives in the EU as an example of effective legal harmonization.

Directives are regulatory rules within the EU that differ from conventions, regulations and other similar means of uniform legislation in that they do not contain specific rules and are binding on states only in terms of result to be achieved. The forms and methods of implementing directives are chosen by each state. It is usually connected with the domestic legislation amendment (implementation). Legal harmonization within the EU is mutual, i.e., there is no process of adaptation of one state's right to the right of another or its reception, but participants take measures to bring the law closer on mutually agreed basis - they develop single act through international law, resulting in common or similar regulation [21; 56]. For example, we can name the following directives within the EU: Directive No. 85/374/EEC of July 25, 1985 on approximation of legislation, rules and administrative regulations of member states on liability for inadequate quality products; Directive No. 93/13/EEC of April 5, 1993 on unfair terms in contracts with consumers; Directive No. 1999/44/EU of May 25, 1999 on certain aspects of sales of goods to consumers and on guarantees related to such a sale; Directive No. 2000/31/EU of June 8, 2000 on e-commerce; Directive No. 2001/95/EU of December 3, 2001 on general safety of products; Directive No. 2005/29/EU of May 11, 2005 on unfair commercial practices in relations between entrepreneurs and consumers in the EU internal market; Directive No. 2006/123/EU of December 12, 2006 on services in the domestic market; Regulation No. 861/2007 of July 11, 2007 on the establishment of the European small claims track; Directive No. 2009/22/EU of April 23, 2009 on interim measures to protect the interests of consumers; Directive No. 2011/83/EU of October 25, 2011 on consumer rights; Directive No. 2013/11/EU of May 21, 2013 on alternative dispute resolution with consumers' participation; Regulation No. 524/2013 of May 21, 2013 on online dispute resolution with consumers' participation [20; 51].

In the EU, consumer status is predominant, and thus, most directives restrict the liberty of entrepreneurs' action in order to provide guarantees to the weaker side of trade relations. At the same time, there is approximation of law on consumer protection with the law on unfair competition in the EU [22; 13].

Having analyzed the international legal practice of resolving issues related to the monopolism restriction in the domestic market and the protection of consumer rights, it should be noted that the best practices of the EU countries deserve due attention.

In legal literature, they rightly point out that «consumer law must become an integral part of the EEC integration law», but the processes of harmonization must simultaneously proceed with the processes of modernization of legislation. This is reflected in systematic review of previously adopted acts, in the development of new regulatory rules that are more adequate to the current situation in the domestic consumer market [20; 52–53].

After studying various viewpoints on legal harmonization within the EEC, the expediency of modernizing legislation, taking into account the constant changes in the trade and economic sphere, it should be noted that the Eurasian Economic Union is an international organization of regional economic integration with international legal personality. In accordance with Article 61 of the Treaty on the Eurasian Economic Union, the Member States obliged to follow coordinated policy in the field of consumer rights protection, aimed at creating equal conditions for the Member States citizens to protect their interests from unfair activities of business entities. Therefore, the most effective is not the method of coercion - to bring one member party in line with the legislation, but harmonization (approximation) of the laws of the Member States on a mutual

basis without violating the principle of the states' sovereign equality, ensuring the community of legal regulation of the Member States' economic interests.

### Conclusions

In the modern world, the need of society for quality goods and services is growing every day, and thus manufacturers of goods requirements and service providers are growing. Within the ongoing development of trade forms and methods, consumer protection legislation should also be improved accordingly due to changes in the consumer market.

Today, in developed foreign countries, best practices in consumer protection issues have been gained. Special attention should be paid to the experience of consumer protection organization in the United States, in the United Kingdom, in the European Union Member States, where an effective legal consumer protection mechanism has been developed and is being improved to reflect constant changes in the domestic consumer market.

In view of the aforesaid, there is a need to modernize consumer protection legislation in Kazakhstan, taking into account the best international practice and the experience of foreign countries. We propose the following:

1. Develop a new legal consumer protection mechanism:

– develop a Consumer Rights Protection Concept, which takes into account the experience of developed foreign countries. It is necessary to enshrine consumer rights protection rules when selling goods, rendering of services and the implementation of work. In particular, it is proposed to regulate the return and replacement of goods procedure, defect correction, determine seller's responsibility and contractor, reclamation procedure and period for its consideration, meeting the needs results;

– develop the State program for improving consumer protection state system annually or for several years.

2. Develop a draft law on amendments to the legislation on consumer rights protection, which provides: government support for consumer public organizations; improved performance of the authorized body in the field of consumer protection; procedure regulation for implementing consumer rights in case of property damage due to electrical overvoltage; Amendments to the Civil Code of the Republic of Kazakhstan regarding standard form contract price; strengthen administrative responsibility for consumer rights violation (for example, an increase of administrative fine amount).

Thus, we will take the first step towards international standards, which are supported by the world democratic community, and we are confident that it contributes to promoting consumer rights protection in Kazakhstan.

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## Тұтынушылардың құқықтарын қорғау туралы шетел заңнамалары: салыстырмалы-құқықтық талдау

Мақалада шетелдерде БҰҰ-ның Тұтынушылардың мүдделерін қорғау үшін бастама қағидаларына (1985) сәйкес Тәуелсіз Мемлекеттер Достастығына және Еуразиялық экономикалық одаққа қатысушы-мемлекеттердің тұтынушылардың құқықтарын қорғау туралы заңнамаларына, атап айтқанда, АҚШ-тың, Ұлыбританияның, Еуропалық одаққа қатысушы-мемлекеттердің ұлттық заңнамаларына салыстырмалы-құқықтық талдау жүргізілген. Сондай-ақ тұтынушылардың құқықтарын қорғау саласындағы әлемдік тәжірибеге, тұтынушылардың құқықтарын және осы саладағы қоғамдық ұйымдардың қызметін реттеуші заңнамалық актілерге талдау жүргізілген. Авторлар Қазақстандағы қолданыстағы заң бойынша сапасыз тауар сатылған жағдайда тұтынушылардың құқықтарын қорғау мен оны қалпына келтірудің құқықтық тетіктерін, тұтынушының сапасыз тауарды ауыстыру немесе қайтару құқығын Ұлыбританияның 2015 жылғы Consumer Rights Act заңымен салыстырып талдау жүргізеді. ТМД, ЕЭО шеңберінде қабылданған ұсынбалы сипаттағы заңнамалық актілер тұтынушылардың құқықтарын қорғаудың жалпы құқықтық және ұйымдастырушылық негіздерін айқындауға арналған, императивтік сипатта емес актілер деген қорытынды жасалған. ТМД-ға қатысушы-мемлекеттердің азаматтарының тұтынушылық құқықтарын қамтамасыз ету деңгейі әзірге халықаралық стандарттарға сәйкес келе бермейді. Осыған орай авторлар тұтынушылардың құқықтарын қорғаудың жаңа құқықтық тетігін әзірлеуді ұсынды.

*Кілт сөздер:* тұтынушы, тұтынушының құқықтық жағдайы, тұтынушылардың құқықтарын қорғау, Қазақстан Республикасы, заңнама, Азаматтық кодекс.

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## Законодательство о защите прав потребителей в зарубежных странах: сравнительно-правовой анализ

В статье проведен сравнительно-правовой анализ законодательств о защите прав потребителей зарубежных стран, в частности, США, Великобритании, государств-участников Европейского союза и

Содружества Независимых Государств, Евразийского экономического союза в соответствии с Руководящими принципами ООН для защиты интересов потребителей (1985). Также проанализированы мировой опыт в области защиты прав потребителей, законодательные акты, регламентирующие права потребителей и деятельность общественных организаций в этой сфере. Авторами рассмотрены правовые механизмы защиты и восстановления прав потребителей в Казахстане в случаях продажи некачественного товара, право потребителей на обмен или возврат товара ненадлежащего качества, в сравнении с законом Великобритании Consumer Rights Act 2015 г. Сделан вывод, что принятые в рамках СНГ, ЕЭС законодательные акты рекомендательного характера предназначены для определения общих правовых и организационных основ осуществления защиты прав потребителей и они не являются императивными. Уровень обеспечения потребительских прав граждан в государствах-участниках СНГ пока еще не соответствует международным стандартам. В связи с этим авторы предлагают выработать новый правовой механизм защиты прав потребителей.

*Ключевые слова:* потребитель, право потребителя, защита прав потребителей, зарубежные страны, Республика Казахстан, законодательство, Гражданский кодекс.

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