

SELECTED QUALITY SIGNS OF FOOD PRODUCTS IN POLAND, LEGAL AND ECONOMIC ASPECTS

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Abstract. The aim of the study was to identify whether and to what extent the selected quality signs guarantee food safety understood in a broader sense as a food quality and whether the legal requirements governing their functioning affect their use by food producers. Detailed analysis concern the selected signs encountered in the Polish food market: “Poznaj Dobrą Żywność” (Try Fine Food), “Jakość Tradycja” (Quality Tradition), “Lista Produktów Tradycyjnych” (Traditional Products List) and Protected Designation of Origin (PDO), Protected Geographical Indication (PGI) and Traditional Speciality Guaranteed (TSG). Considerable attention was paid to their legal requirements related to ensuring food safety, because, as a factor in the economic environment, they strongly influence the activity of entities in agribusiness. For the study dogmatic method and documentary method for the secondary data collection were used. Results were elaborated and shown by the descriptive method and graphic techniques. The least of all the quality signs in Poland are those legally protected by the EU (9 PDO, 19 PGI, 9 TSG), which is undoubtedly linked with high EU requirements of their use for producers. Among all of the analysed signs, the most popular is the Polish “Traditional Products List” (1347 registered products till the end of 2014), probably due to the lack of any institutional verification *ex ante* and *ex post* of statutory requirements fulfilment regarding the quality of the products to be put on the List. Considerations can be the basis for further research, especially in terms of proposing the creation of legal and economic instruments or improvements to existing ones in terms of helping producers to meet the high legal requirements of the discussed quality signs.

Key words: food safety, food quality, quality signs

INTRODUCTION

Safety with regard to human health and the interests of consumers has become an indispensable condition for the admission of food and beverages to the EU market. Therefore in the EU there is a system of food safety, which assumes that no unsafe food may be placed on the market. Food shall be deemed to be unsafe if it is considered injurious to health or unfit for human consumption. Food shall be deemed to be safe if it complies with specific Community provisions governing food safety and where there are no specific Community provisions, to the specific provisions of national food law of the Member State in whose territory the food is marketed (Regulation..., 2002). It turns out, however, that consumers are demanding today food safety in a broader sense than is guaranteed by mandatory requirements common to all marketed products (D’Addezio, 2011). Additional elements became important such as the possibility to know the origin of food and production processes, the link with tradition, exclusion of the use of genetically modified organisms and substances scientifically uncertain still not considered harmful. In the EU it is observed the growing consumer demand for food products with both high quality and traditional character. This raises the demand for foodstuffs with a strictly defined specifications, strongly associated with their geographical origin. In the current regulations, it is assumed that producers should be allowed to inform buyers about specific characteristics of their products in accordance with the

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principles of fair competition. EU law provides producers with the right tools to better identify and promote those of their products that have specific characteristics while protecting those producers against unfair practices (Regulation..., 2012). Most often legal protection of product quality consists in protecting its name or mark which demonstrates its quality characteristics (Capelli, 2011), and further helps in distinguishing the product from competitive products.

The concept of quality is not defined in the EU law because “there is no absolute concept of quality” (Germanò, 2010). The Polish legislation defined the term “commercial quality” by which is meant the “characteristics of the agri-food product concerning its organoleptic, physico-chemical and microbiological parameters in terms of production technology, size or weight and the requirements arising from the mode of production, packaging, presentation and marking, not covered by the requirements of sanitary, veterinary and phytosanitary” (Ustawa..., 2000b). EU policy on agricultural product quality indicates that the quality has to be a competitive advantage for European agricultural products and foodstuffs. The Commission applies the concept of quality as “meeting the expectations of consumers” and defines “quality products” as those products which offer the consumer something over and above baseline requirements, whether in the form of special characteristics, such as taste, origin, etc., or in the method of production (Green Paper..., 2008). Especially the methods of production or a particular place of production can be considered as a source of quality, which is an additional value which should be communicated to the consumer by certificates or labels.

The aim of the study is to identify whether and to what extent the selected quality signs guarantee food safety, understood in a broader sense as a food quality, and whether the legal requirements governing their functioning affect their use by food producers. Studies are limited to detailed analysis of the selected signs encountered in the Polish food market: “Poznaj Dobrą Żywność” (Try Good Food), “Jakość Tradycja” (Quality Tradition), “Lista Produktów Tradycyjnych” (Traditional Products List) and Protected Designation of Origin (PDO), Protected Geographical Indication (PGI) and Traditional Speciality Guaranteed (TSG). Considerable attention was paid to their legal requirements in the EU and Polish law, related to ensuring food safety, because, as a factor in the economic environment, they strongly

influence the activity of entities in agribusiness. For the study, dogmatic method and documentary method for the secondary data collection were used (Apanowicz, 2002). The results were elaborated and shown by the descriptive method and graphic techniques. Considerations can be the basis for further research, especially in terms of proposing a creation of legal and economic instruments or improvements to the existing ones in terms of helping producers to meet the high legal requirements of the discussed quality signs.

CHARACTERISTICS OF SELECTED NATIONAL SIGNS ON FOOD MARKET

In the case of Polish quality trademarks worth noting is the program “Try Fine Food” (PDŻ), which was launched under the Act of 21 December 2000 on commercial quality of agri-food products. The designation “PDŻ” is granted to the products of outstanding quality characteristics in terms of raw material composition, microbiological and sensory characteristics, nutrient and functional additives used, as well as methods of processing and preservation of food products. Producer shall document the outstanding product quality. Product which is to be awarded the label “PDŻ” must meet the mandatory requirements of health, sanitary, veterinary and phytosanitary measures set out in separate rules. In the procedure for granting the designation an opinion is issued by the Chief Inspector of commercial quality of agricultural and food products (IJHARS). Then, the College of Science for the quality of food products of the “PDŻ” recommends to the Minister of Agriculture and Rural Development grant or refusal of the sign with justification. The final binding decision is issued by the Minister of Agriculture and Rural Development. The products, which have been given the quality label “PDŻ”, are subject to official control of food during the validity of the sign. Due to the request to provide evidence of outstanding quality, verified by IJHARS both before and after the decision to grant the sign, it can be concluded that the designation “PDŻ” is a reliable information and proof that products have the properties specified in the Act.

The “Quality Tradition” is a certification scheme for distinction and promotion of traditional food products of high quality, created by the Polish Chamber of Regional and Local Product. The “Quality Tradition” is a trade mark registered in the Patent Office under No. Z307821 and protected under the law of industrial property as

a collective guarantee mark (Ustawa, 2000a). It can be said that this mark, due to the specific additional requirements to obtain it, guarantees the quality of products and indicates particular characteristics, set out in the Rules of the Chamber, common to all goods or services bearing it (Kostański, 2010; Kempa-Dymińska and Kempa-Dymiński, 2013). Any producer can accede to this certification scheme if their products meet the requirements laid down in the Rules of the Chamber. Products must have certain characteristics disclosed in the specification, i.e. a traditional composition, traditional method of production, a special quality resulting from their traditional character or expressing their traditional character or reputation that distinguishes them from products belonging to the same category. Products with traditional composition, method of production or character shall be deemed to such if they have at least a 50-year tradition of production and breeds and varieties are considered to be traditional if they were in use before 1956. From the producers' point of view such a long period (much longer than the one provided for the EU indication of TSG) is a strict requirement, but for consumers is a better guarantee of the production tradition. Products shall be produced using natural raw materials, which are deemed to such if they result from an organic farm or a farm applying Good Agricultural Practice and Good Breeding Practice excluding GMOs. Production should comply with the requirements of traceability. The decision to grant or withdraw the mark shall take the Chapter, consisting of representatives of the Chamber, representatives of the Association of Polish regions delegated by the Board of the Association of Polish regions and independent experts. The "Quality Tradition" does not consist in the protection of appellations of origin of the product, as in the case of European quality schemes, but on granting the right to use the mark. To ensure the compliance of the product with characteristics indicated in the specification the production process is supervised by certification bodies accredited according to PN-EN 45011 standard and authorized by the Minister of Agriculture. Contrary to the protection of geographical indications and designations of origin, which is unlimited in time, the right to the trade mark is granted for 2 or 3 years, renewable, and is paid.

Analysing data on the scale of application of these two national quality marks of food, it turns out that by 10 July 2015 the indication "PDŻ" could be found on 547 products, and the designation "Quality Tradition" was

less used, because only on 175 products (Table 1). The most products were registered in the program "PDŻ" by the dairy industry (38.4%), fruit and vegetable processing (19.0%), meat industry (12.6%) and producers of mixed and processed products on the basis of categories eligible for registration in the program (14.6%). In the case of the "Quality Tradition" scheme also the most numerous were products of the dairy industry (24.0%), then meat and meat products (20.6%) and bread and other cereals, legumes and root crops (19.4%) and fruit and vegetable products (11.4%). In both designations the remaining product categories had shares below 10% (Table 1).

Traditional Products List (TPL) was created on the grounds of the Act of 17 December 2004 on registration and protection of names and designations of agricultural products and foodstuffs and traditional products. The Minister of Agriculture and Rural Development in cooperation with the Marshals of voivodeships are responsible for the List. On the List can be registered agricultural products and foodstuffs whose quality or unique characteristics and properties result from the use of traditional production methods, which are part of the cultural heritage of the region in which they are produced and which are part of the identity of the local community. The name of a traditional product registered on a TPL is not protected under this Act, and the use of traditional product name referring to a geographical area does not constitute a recognition of origin of the product from the area referred to by this name. Application for registration on TPL is submitted to the competent local voivodship marshal, who makes its formal assessment in consultation with chamber of commerce associating entities producing traditional products. In case of a positive opinion, the marshal shall send the documentation to the minister responsible for the markets, who registers the traditional product on the Traditional Products List. It is worth noting that the fulfilment of statutory requirements regarding the quality of the product is not verified by a state authority or by an accredited certification body. Producers are not required to be subjected to a voluntary control, which would confirm the conformity of production to the methods declared by them in the application for registration on the TPL. The Act also quite imprecisely provides for the circumstances of a product deletion from the TPL, i.e., "Where there is no possibility of producing an agricultural product, foodstuff or drink spirit with the characteristics and properties that were the basis for inclusion of this agricultural

Table 1. Product categories with marks “Try Fine Food” and “Quality Tradition”
Tabela 1. Kategorie produktów ze znakami „Poznaj Dobrą Żywność” i „Jakość Tradycja”

Product categories Kategorie produktowe	“Try Fine Food” „Poznaj Dobrą Żywność”		“Quality Tradition” „Jakość Tradycja”	
	Number of products Liczba produktów	Share Udział [%]	Number of products Liczba produktów	Share Udział [%]
Meat products – Wyroby mięsne	69	12.6	36	20.6
Milk products – Produkty mleczne	210	38.4	42	24.0
Fish products – Produkty rybne	3	0.6	4	2.3
Eggs – Jaja	8	1.5	0	0.0
Honeys – Miody	14	2.5	4	2.3
Edible fats – Tłuszcze spożywcze	6	1.1	5	2.9
Breads and other cereals and legumes products Pieczywo oraz inne przetwory zbożowe i strączkowe	30	5.5	34	19.4
Fruits, vegetables, mushrooms and their products Owoce, warzywa, grzyby i ich przetwory	104	19.0	20	11.4
Confectionery and pastry products Wyroby cukiernicze i ciastkarskie	4	0.7	9	5.1
Herbs and spices – Zioła i przyprawy	0	0.0	2	1.1
Mineral waters – Wody mineralne	0	0.0	1	0.6
Alcoholic beverages – Napoje alkoholowe	19	3.5	3	1.7
Mixed products based on the above-mentioned products Wyroby mieszane na bazie wyżej wymienionych produktów	80	14.6	15	8.6
Total – Razem	547	100.0	175	100.0

Source: own elaboration based on MRiRW. Informacje..., n.d. and Germanò, 2010.

Źródło: opracowanie własne na podstawie MRiRW. Informacje..., b.d. i Germanò, 2010.

product, foodstuff or a spirit drink into the traditional products list” (Art. 54 paragraph 2). The cited provision does not explain who, when and how states the occurrence of the specified circumstances. Products included on TPL do not bear any special designations, symbols or marks and therefore their special features are not communicated to consumers in the market. TPL is only an information about special quality and tradition of the product as referred in the Act. However, it cannot be deemed to be a reliable form of confirmation of these qualities, due to the absence of *ex post* and *ex-ante* control of the product in terms of its fulfilment of certain quality characteristics.

It turns out that among the above-described national food quality systems, the TPL is the most popular, as since 2005, when the first 56 products had been placed on it, the list had gradually expanded, and at the end of 2014 years there were already 1347 products registered on it (Fig. 1).

Analysing the structure of TPL products it can be noticed that there are many ready-made dishes and meals (21.5% of cases), followed by meat products (20.3%) and bakery and confectionary products (19.8%). The full products structure is shown in Figure 2.

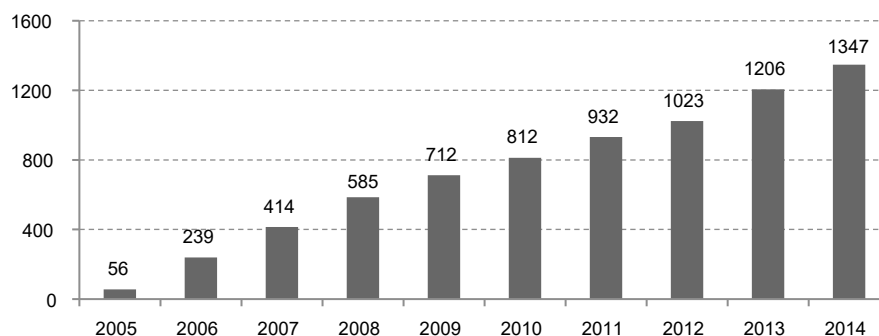


Fig. 1. Number of products which have been registered on the TPL (cumulative in years 2005–2014)

Source: own elaboration based on MRiRW. Lista..., n.d.

Rys. 1. Liczba produktów wpisanych na LPT (narastająco w latach 2005–2014)

Źródło: opracowanie własne na podstawie MRiRW. Lista..., b.d.

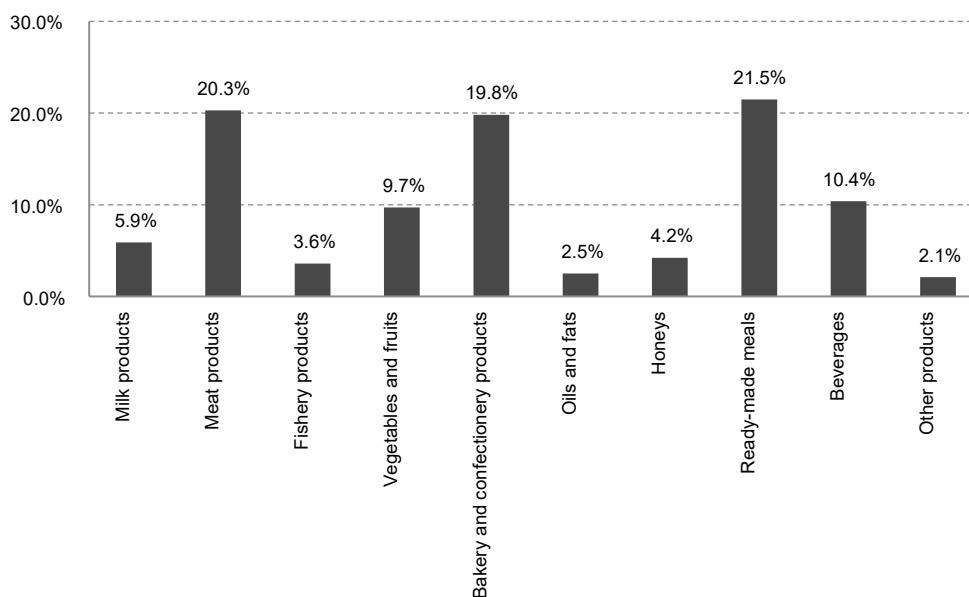


Fig. 2. Branch structure of the products registered on the TPL (at the end of 2014, n = 1347)

Source: own elaboration based on MRiRW. Lista..., n.d.

Rys. 2. Struktura branżowa wyrobów wpisanych na LPT (stan na koniec 2014 roku, n = 1347)

Źródło: opracowanie własne na podstawie MRiRW. Lista..., b.d.

QUALITY INDICATIONS PROTECTED UNDER THE EUROPEAN UNION LAW

In the European Union there is a special quality scheme for agricultural products and foodstuffs that meet the

high criteria for safety and quality. It is possible to register under this scheme products in three categories: protected designation of origin (PDO), protected geographical indication (PGI) and traditional specialty

guaranteed (TSG)¹. Each of them has its own graphic symbol that can be placed on the packaging of commercial products that meet the criteria laid down by the EU legislator. PDO, PGI and TSG are protected under a single, centralized system at EU level of protection, based on a comprehensive procedure of co-administration by the European Commission and the Member States, including production control system, product registration procedure, and protection system inspired by intellectual property rights. The system is the answer to, among others, a lack of consumers confidence to products devoid of credibility and a uniform authenticity guarantee (Rubino, 2013). Its goal is not only to promote and protect quality products, but also to give buyers clear information about the properties creating an added value of the products. The assumption is that consumers will pay a fair price for agricultural products if they have accurate, useful and guaranteed information about product characteristics and farming attributes (COM, 2009; Regulation..., 2012). PDO and PGI defined in Art. 5 of EU Regulation No. 1151/2012, are names that identify a product as originating from a particular place, region or country. They differ in intensity of the link between the product and the area of its origin. The PDOs require that the quality or characteristics of the product were predominantly or exclusively due to natural and human factors typical for the region, and all stages of production took place in the defined geographical area. And for a PGI it is sufficient to demonstrate that a specific (even one) quality, characteristic or even only the reputation of the product is mainly due to its geographical origin, and also at least one its production stage took place in the indicated geographical area. The requirements are thus higher for designations of origin, which

must ensure that there is an objective, qualitative link between the product and a particular geographical place, that this name reflects. Therefore, PDO are inseparably linked to the quality guarantee. While the PGIs “do not imply any objectively existing qualitative relationship between the product and a particular geographical place, although they do not exclude it” (Barańczuk, 2008).

The scope of protection for PDO and PGI sets art. 13 stipulating that registered names shall be protected against, among others, any false and misleading use of a protected name for commercial purposes in respect of products not covered by the registration, which could mislead the consumer about the true origin of the product, even if the true origin of the products or services is indicated or if the protected name is translated or accompanied by an expression such as “style”, “type”, “method”, etc. Protected designations of origin and protected geographical indications shall not become generic (art. 13 par. 2), and cannot be registered as trade marks (art. 14 par. 1). PDO and PGI are not an exclusive right of a single producer, and may be used by any operator marketing a product conforming to the corresponding specification (art. 12). They differ from trade marks in such a way that they have the function of certifying the origin of a product from a specific geographical area and not from a particular entrepreneur. Moreover, they are instruments of a public nature, separate from trademarks, which are instruments of a private nature. Trademarks are in fact available to all who meet the requirements to use them, and serve to preserve the conditions for fair competition between entities authorized for using them. While the possibility of using the protected name is conditioned by the prior recognition of it by the Union authorities and fulfilment by the product of specifications requirements, identical for all producers in the area. In turn, the TSG indicates the quality of the product resulting from traditional production methods, apart from its geographical origin (art. 17). The term „traditional” means that the product has a proven usage on the domestic market for a period that allows transmission between generations, which is at least 30 years (art. 3 point 3). A name of a product shall be eligible for registration as TSG if a product is produced in a traditional mode or is produced from raw materials or ingredients that are traditionally used. Moreover, a name shall have been traditionally used to refer to the specific product or identify the traditional character or specific character of the product (art. 18). Due to the low attractiveness of the

¹ See A. Suchoń (2010). Własność przemysłowa w sektorze rolno-spożywczym; wybrane zagadnienia prawne. *Zesz. Nauk. SGGW Warsz. Probl. Roln. Świat.*, 10(25), 4, 101–115, I. Lipińska (2008). System chronionych nazw pochodzenia i oznaczeń geograficznych produktów rolnych, *J. Agribus. Rural Dev.*, 4(10), 1–10; K. Dobieżyński (2013). Ewolucja podejścia do jakości żywności oraz podstawowe cechy systemów jakości produktów rolnych i środków spożywczych w Unii Europejskiej. *Zesz. Nauk. SGGW Warsz. Probl. Roln. Świat.*, 13(28), 3, 65–75; E. Całka (2008). Geograficzne oznaczenia pochodzenia. Studium z prawa wspólnotowego i polskiego. Warszawa: Oficyna Wolters Kluwer business; M. Grębowiec (2010). Rola produktów tradycyjnych i regionalnych w podejmowaniu decyzji nabywczych przez konsumentów na rynku dóbr żywnościowych w Polsce. *Zesz. Nauk. SGGW Warsz. Probl. Roln. Świat.*, 10(25), 22–31.

mark among European producers and the low recognition among consumers, the legislator chose to introduce the requirement to register its name with reservation of its use only for products obtained in accordance with the reported specifications. As a result, producers of registered TSG will have a right that have always had producers of PDO and PGI to exclusiveness to the name and to protection “against any misuse, imitation or evocation, and against any other practice liable to mislead consumers” (art. 24). High requirements for registration of products as PDO, PGI and TSG are possible reasons why few products in Poland can boast this type of designations. By October 2015 only 37 of such signs were registered, of which 9 as PDO and TSG, and the remaining 19 as a PGI (MRiRW. Produkty..., n.d.).

SUMMARY

In the case of quality schemes legally protected by the EU, dedicated to PDO, PGI and TSG, it turns out that their occurrence in Poland is very low, which is undoubtedly the result of high EU requirements for producers wishing to use these indications. Among the discussed Polish signs the indication “Try Fine Food” gives a direct guarantee of products quality. It is legally regulated, and its grant is subject to fulfilment by the product of quality characteristics being formally verified. Products bearing this sign are subject to control of designated institutions. Therefore it can be stated that the sign is a reliable and credible guarantee of product quality, ensuring that product has properties specified in the application and corresponding to the requirements of the Act. The trade mark “Quality Tradition” is governed by the law of industrial property, so its function is to distinguish the goods of one entrepreneur from those of other entrepreneurs. However, it also ensures high quality of the products due to their specific quality requirements contained in the rules. The “Traditional Products List” was created by a law, but products registered on it are not subject to any control, and therefore it fulfils only the informative function, but not the guarantee one. Lack of a strong institutional control is perhaps one of the main reasons why on the TPL there are far more registered products than in the other systems, presented in this paper, ensuring the safety and quality of food.

It can be concluded that described signs and quality schemes are a useful tool in creating a well-conceived food safety. They support the identification of products and their distinction from competitive offerings while being at

the same time a guarantee for consumers about the safety and high quality of products being marked with them². This is possible due to the special legal solutions and rules of institutions conducting the lists of producers and products that can use indicated signs of quality. It should be noted that the number of foodstuffs distinguished by those marks is not too large, what may result from strict legislative and statutory requirements, but on the other hand, this may be considered an asset of products involved in these quality schemes due to their uniqueness.

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² See M. Kawa, A. Augustyńska-Prejsnar (2014). Czynniki decydujące o wyborze produktów tradycyjnych i regionalnych w opinii mieszkańców Podkarpacia. *J. Agribus. Rural Dev.* 3(33), 51–59.

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WYBRANE ZNAKI JAKOŚCI W POLSCE, ASPEKTY PRAWNO-EKONOMICZNE

Streszczenie. Celem badań jest wskazanie, czy i w jakim stopniu wybrane znaki jakości gwarantują bezpieczeństwo żywności, rozumiane w szerszym znaczeniu jako gwarancja szczególnych cech jakościowych, oraz czy wymogi prawne regulujące ich funkcjonowanie mają wpływ na ich stosowanie przez producentów żywności. Szczegółowo przeanalizowano tu następujące znaki i systemy jakości spotykane na polskim rynku żywności: Poznaj Dobrą Żywność (PDŻ), Jakość Tradycja (J&T), Lista Produktów Tradycyjnych (LPT) oraz Chroniona Nazwa Pochodzenia (ChNP), Chronione Pochodzenie Geograficzne (ChPG) i Gwarantowana Tradycyjna Specjalność (GTS). Szczególną uwagę poświęcono ich wymogom prawnym w odniesieniu do zapewnienia jakości i bezpieczeństwa żywności, bo jako czynnik otoczenia gospodarczego istotnie wpływają one na działalność w agrobiznesie. W badaniach wykorzystano metodę dogmatyczną oraz metodę dokumentacyjną do zebrania danych wtórnych. Wyniki zostały opracowane i przedstawione metodą opisową oraz technikami graficznymi. Przeprowadzone badania wykazały, że najmniej na polskim rynku występuje znaków chronionych prawem unijnym (9ChNP, 19 ChOG, 9 GTS), co niewątpliwie wiąże się z wysokimi wymogami prawnymi ich stosowania. Spośród wszystkich analizowanych znaków najbardziej popularna jest „Lista Produktów Tradycyjnych” (1347 produktów zarejestrowanych na koniec 2014 r.), do czego zapewne przyczynił się brak jakiegokolwiek weryfikacji *ex post* i *ex ante* spełnienia ustawowych wymogów co do jakości umieszczonych na niej produktów. Rozważania mogą posłużyć jako podstawa do dalszych badań, zwłaszcza w odniesieniu do zaproponowania instrumentów prawnych i ekonomicznych oraz ulepszenia tych istniejących pod kątem pomocy producentom w spełnieniu wysokich wymagań prawnych omówionych znaków jakości.

Słowa kluczowe: bezpieczeństwo żywności, jakość żywności, znaki jakości

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