

CONSUMER PROTECTION IN THE EUROPEAN UNION

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Abstract

The right of the customer occupies an important place in the policy undertaken by the European Union and is a field that is constantly changing and is always evolving. The main purpose of creating the European normative framework in this sector, because it creates better conditions for consumer protection, has been and continues to be a key factor to the success of the implementation of a common European market.

In this paper will be treated stages of evolution of the consumer's right main, normative acts in this field as well as innovations and advantages that bring these measures to consumers.

In addition, the paper will focus on the way of evolution of European Union competence in the sector of consumer right.

The ending part of the paper will be presenting the treatment Albanian legislation regarding consumer protection. Well norms of the Civil Code and the Law on consumer protection. There will be a treatment, based on these two sets of legal norms to determine what rights are, what legal course and customer who are state actors responsible for the protection of this right.

This paper will serve for the recognition the evolution of European legislation in the field of consumer protection as a means of recognizing and aligning its legislation with the European one.

Keywords: *consumer rights, consumer responsibilities, the European Union consumer safety.*

Introduction.

European Union (EU) has an open market which includes 27 countries and over 490 million consumers. They are the lifeblood of the economy as their consumption represents 58% of EU GDP. Confident, informed and empowered consumers are the motor of economic change as their choices drive innovation and efficiency. But it is also in their role as consumers that the EU can most directly connect to the daily lives of our citizens and demonstrate the benefits of the EU ["1"].

Community legislation aims to protect consumers through rules and regulations that provide important guarantees to consumers, in terms of their rights, their protection and their redress.

Promoting consumers' rights, prosperity and wellbeing are core values of the European Union and this is reflected in its laws. The creation of a European normative framework in this sector has been and continues to be one of the main objectives of the EU, because it creates more favorable conditions for consumer protection. Precisely this intention, this objective pursued and implemented almost entirely, has been and continues to be a key factor to the success of the implementation of a common European market. But considering that the norms set by the EU in this sector are the minimum level of protection that all EU countries should, according to EU law, give consumers.

If we provide a definition that what understand with “consumers” it would be like this: "customer will be named every person who buys or uses goods and services to fulfill their needs and not for purposes that are related to commercial activity" .

European Union raises up its policy and legislation related to consumer protection on 10 basic principles ["2"].

1. Buy what you want, where you want.
2. If it doesn't work, send it back.
3. High safety standards for food and other consumer goods.
4. Know what you are eating.
5. Contracts should be fair to consumers.
6. Sometimes consumers can change their mind.
7. Making it easier to compare prices.
8. Consumer should not be misled.
9. Protection while you are on holiday.
10. Effective redress for cross-border disputes.

Evolution of European Union competence in consumer's rights sector.

The first steps of the European Union in relation to the customer right originated in 1957 in the preamble of the Treaty of Rome, where it was decided, the main objective of policy integration, improved living standards and health protection of the European Communities. This objective will ensure the circulation of goods, services, labor force and consumer protection.

Consumer protection as a special policy of the European Union is developed in a later period. The development of legislation in this sector evolved with the introduction of quality consumer software, which are 5-years programs undertaken by the EU in the field of consumer protection.

Development of the legislation for the consumer, may be illustrated as below:

- ❖ The first program, included the period 1975-1980 and had the most important element in the definition of a catalog of fundamental rights of consumers. He covered the right of protection of life and safety, protection of economic interests, compensation for damage information and education, and the right to represent the interests of consumers. This program includes a list of countermeasures that would be adopted by the European Community in order to apply the program. These countermeasures were: protection against abusive practices and unfair business in the conditions of contracts; reaction against unfair or fraud advertisements.
- ❖ The second program, included the period 1981-1985 and had a particular focus on the role of prices and a dialogue between consumers and businesses. This program also contributes to the development of several directives as the Council of Europe it 84/450 EEC 85/577 on misleading and comparative advertising, Directive 85/577 on distance contracts and sales; 85/374 on hazardous products, etc.. This program provided a solid foundation for the development and adoption of further directives in the field of consumer protection.
- ❖ The third program: The third, involved the period 1985-1990 and has produced Council Directive 87/102 connected to the consumer credit and the Directive 90/314 concerning the travel package tours. Community through this program changed its position in relation to consumer protection and listed among the priority sectors.

The subsequent programs covered periods of 3 years and were focused on the protection of consumer interest in the common European market.

Maasticht Treaty marked an important step in raising the level of requirements relating to consumer protection. The treaty stipulates that the European Community's main policies will be "...to promote throughout the Community a harmonious and balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic performance, a high level of employment and of social protection, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States" ["3"].

For the achievement of these purposes, the activities of the Community shall include ... *a contribution to the strengthening of consumer protection*["4"].

In the following articles and in particular Article 129 / A is stipulated that:

The Community shall contribute to the attainment of a high level of consumer protection through:

- a) measures for the completion of the internal market;*
- b) specific action which supports and supplements the policy pursued by the Member States to protect the health, safety and economic interests of consumers and to provide adequate information to consumers.*

The Council, after submitting a proposal to the European Parliament and the Council, and after consulting the Economic and Social Committee, shall adopt the specific action referred to in Article 129 / A for the purpose of consumer protection. Me anë të këtij Traktati u përcaktua politika e mbrojtjes së konsumatorit si një zonë e pavarur e politikës europiane.

Significant innovation has brought the Amsterdam Treaty which establishes that the European Community has an obligation to contribute to the improvement of consumer protection, putting up judicial cooperation in civil matters to ensure the highest level of consumer protection and promotion of consumer interests ["5"].

In order to fulfill these objectives, the treaty provides minimum or total harmonization focusing attention on three basic purposes:

1. high level of consumer protection;
2. effective enforcement of consumer legislation;
3. reinforced involvement of consumer organizations.

With the Treaty of Lisbon, the Union, in order to promote the interests of consumers and to ensure a high level of consumer protection, shall contribute to protecting the health, safety and economic interests of consumers in order to safeguard their interests["6"]. To attainment of this objectives the European Union has contribute through:

- (a) measures adopted in the context of the completion of the internal market;
- (b) measures which support, supplement and monitor the policy pursued by the Member States.

The latest program adopted by the European Union in this sector is the one which covers the period 2007-2013. The strategy sets the challenges, priorities and actions of EU consumer to empower consumers, to enhance their welfare and to protect them effectively. The Commission's vision is to achieve by 2013 a single, simple set of rules for the benefit of consumers and retailers alike.

The priorities of this strategy are to:

- Increase consumer confidence in the internal market – which contributes to the improvement of business competitiveness – by establishing a uniform regulatory

environment that is equally enforced across the European market and which effectively protects consumers.

- Strengthen consumers' position in the marketplace by developing consumer education tools, the active support of EU consumer organizations, and their involvement in policy making.
- Ensure that consumer concerns are taken into account in all EU policies.
- Complement Member States' consumer policies.
- Collect consumer-related data to support the development of legislative proposals and other initiatives["7"].

Consumer protection nowadays in the European Union.

Nowadays the EU is working to integrate consumer interests in all its policies, especially in relation to the unique market, competition policy, energy policy, the liberalization of services and public assets and maintaining services of general interest.

Consumer policy of European Union, nowadays, has four main priorities.

1. Improving consumer safety.
2. Enhancing knowledge, by making consumers more aware of their EU rights and supporting consumer organizations.
3. Implementation, enforcement and redress by working with national authorities to effectively enforce consumer law.
4. Keeping Up with social and economic change by adapting consumer legislation to meet the needs of changing markets. An important part of this is making sure that consumers can access digital products and services easily, legally and affordably from anywhere in the EU ["8"].

It also identifies specific policy actions to be taken between now and the end of 2014, such as the adaptation to the digital age of consumer protection for package travelers.

EU law gives all consumers a minimum level of protection regardless of where they come from and which national laws are applicable. When countries transpose an EU directive into their national law and context, they may often choose to go beyond basic EU requirements. Some of the key consumer legislation is fully harmonised, such as legislation on unfair commercial practices or (from 2014) the right to withdraw from a distance contract within 14 days["9"]. The EU works with national authorities on the ground to make sure consumer laws are properly implemented and enforced.

The main sectors where the EU intervenes in relation to consumer protection are["10"]:

- food: to ensure sustainability and safety.
- energy: so that consumers can get the best value for money in the liberalised market and better manage their energy consumption;
- financial: to protect consumers' financial interests and give them the tools to manage their finances;

- transport: to adapt legislation to modern patterns of travel and to support sustainable mobility;
- digital: to tackle problems faced by consumers and ensure their protection online.

Consumer protection extends beyond trying to ensure that goods and services are safe, and covers a range of issues that touch on economic interests, as well as the health and safety. It is considered by policy makers when developing legislation for a range of issues, for example, from food safety to the liberalization of services of general interest, or from the introduction of the euro to advertising claims.

More specifically, consumer confidence may be expected to increase as a result of consumer protection and consumer rights being upheld.

The central theme of most consumer protection legislation is to guarantee that dangerous goods or malicious practices are uncovered and taken off the market as quickly as possible. Consumer protection legislation has been introduced at a pan-European level to cover areas such as unfair commercial practices["11"] and consumer protection co-operation["12"].

EU consumers have the same basic rights in all Member States, for example, the right: to buy what they want where they want; to expect goods and services to be safe; to return faulty goods; to change their mind after having purchased something; and to have redress in cross-border disputes.

The customer and his rights according to the Albanian legislation.

Albanian legislation aims at a better informing for the individuals and also that consumers themselves determine the market, which can be achieved by assessing the market situation arising from oversight and the transparency of the market. The measures taken in towards the consumer protection aims at their effective protection based on a solid legal framework and on an institutional basis supervised by the government. This legal framework tends more and more to harmonize with EU respective legislation, to consolidate administrative capacity in Albania and encourage coordinated lawmaking activities.

Some basic and general principles of the legislation in the area of consumer protection and market supervision are ["13"]:

- Integration: the elements related to the consumer protection should be integrated with other state policies.
- Diversity of actors: besides state authorities, which have the main responsibility for implementing state policies, non-governmental organizations should play an active role towards protecting and informing the public.
- Coordination: because of the special nature of this field must all factors and actors coordinate their work in the field of consumer protection and market surveillance;
- coherence and cost-efficiency: the measures should always respond to current market constituents and vary according to market itself undergoes changes. Clearly defined and should be avoided as much as possible overlapping of competencies;

- Proportionality: the measures taken in order to protect consumers in the market should be proportionate to the objectives to be achieved.
- Good governance: political and administrative actions taken should be so independent, non-discriminatory, transparent and fair.

The customer base Albanian rights under existing legislation are ["14"]:

1. The right to protection of health, environment and safety of life.
2. The right to protection of economic interests.
3. The right of appeal.
4. The right to compensation.
5. The right to education.
6. The right to information.
7. Access to public services.
8. The right to legal defense.
9. The right of association or unions for the protection of consumers and the rights of their representation in decision-making bodies.

Consumer rights may be limited in exceptional cases, in order to protect the interest of safety, health and human nature, but not in the way that customers bring in an unequal position.

Consumer rights are supervised by state authorities to ensure that products comply with safety requirements. If products do not meet these authorities may withdraw from the market, to require suspension of activity, to give them warnings or impose any other measure deemed appropriate.

For consumers can be difficult to be aware of whether a good or service meets the conditions set by law. State must take appropriate measures to protect consumers in the evaluation of product safety. Manufacturers, suppliers, vendors and service providers are forced to throw on the market only safe goods and services ["15"]. For this they should consider the characteristics of product composition, quantity, presentation, packaging, label, installation instructions, and maintenance and disposal.

Traders should describe the effect of the goods and service categories of customers who are considered vulnerable layers, especially on children, pregnant women and the elderly, the use of goods or services.

The customer must have the full details of the purchase or use of goods or services available on the market. These data must be true, accurate, clear all the characteristics of goods or services and their terms of trade ["16"].

Advertising messages should be in Albanian ["17"], inappropriate and fair. If they contain elements of discrimination, effort or confusion benefit from the lack of experience of the consumer, causing moral harm we are dealing with a case of unfair advertising should be banned and conform to the provisions of the Civil Code of the Republic of Albania. Advertisers and advertising agencies are responsible, individually or jointly, for their advertising misleading and unfair.

Conclusions.

The positive developments in terms of policy and legislation for consumer protection should be complemented by action to implement them. Attention should focus on three main areas:

1. consumer and business awareness of their rights and obligations.
2. strengthening state institutions that have the authority to implement consumer protection legislation.
3. support and public awareness of consumer associations as discipline helps traders and consumers.

Although the economic, social and political in recent years in Albania, have brought positive changes in the area of consumer protection, particularly with regard to legislation remains to be done more in the future.

Additional protection rules should be adopted, especially in the area of product safety, consumer information and education to them, which should be promoted more in the future, more effort should also be made in order to increase the representation of interests customers in civil society. The issue of enforcement of consumer protection legislation should be given a special priority: effective mechanisms of compensation for consumers should be further developed and an appropriate system of market surveillance should be established.

Despite efforts and approximation of Albanian legislation with EU Albania to harmonize national laws and practices with EU consumer protection and market surveillance. This should be accompanied by continued business information with the relevant legislation in order to guarantee placement or movement in the market safe products and services. But the policies and measures taken by state institutions for consumer protection, to promote fair competition and avoid abuses should not become an obstacle to international trade with countries, especially the EU.

References

- ["1"]EU Consumer Policy strategy 2007-2013; Empowering consumers, enhancing their welfare, effectively protecting them; Brussels, 13.3.2007.
- ["2"]Consumer Protection in the European Union: Ten Basic Principles; European Communities, B-1049 Brussels 2005; ISBN 92-79-00193-0.
- ["3"]Article 2 of Treaty of Maastricht; <http://www.eurotreaties.com/maastrichtec.pdf>
- ["4"]Article 3/S of Treaty of Maastricht; <http://www.eurotreaties.com/maastrichtec.pdf>
- ["5"]Article 3 T and 65 of Treaty of Amsterdam;
<http://eur-lex.europa.eu/en/treaties/dat/11997D/htm/11997D.html>
- ["6"]Article 169 (ex Article 153 TEC) Treaty On The Functioning Of The European Union (Consolidated Version); Publications Office of the European Union, 2010; ISBN 978-92-824-2577-0; European Union, 2010.
- ["7"] http://ec.europa.eu/consumers/pro/index_en.htm
- ["8"]<http://europa.eu/pol/cons/flipbook/en/files/consumers.pdf>
- ["9"] Putting the consumer first; ISBN 978-92-79-24541-1; Publications Office of the European Union, Belgium; January 2013.
- ["10"]Putting the consumer first; ISBN 978-92-79-24541-1; Publications Office of the European Union, Belgium; January 2013.
- ["11"]Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to consumer commercial practices in the internal market.
- ["12"]Regulation (EC) No 2006/2004 of the European Parliament and of the Council on co-operation between national authorities responsible for the enforcement of consumer protection laws.
- ["13"]Strategjia Ndërsektoriale për Mbrojtjen e Konsumatorëve dhe Mbikqyrjen e Tregut 2007-2013.
- ["14"]Neni 4 i Ligjit Nr.9902, datë 17.04.2008 “Për mbrojtjen e konsumatorëve”.
Ligji Nr.9779, dt.16.07.2007 “Për sigurinë e përgjithshme, kërkesat thelbësore dhe vleresimin e
- ["15"]konformitetit të produkteve joushqimore”.
- ["16"]Ligji Nr.9779, dt.16.07.2007 ”Për sigurinë e përgjithshme, kërkesat thelbësore dhe vleresimin e konformitetit të produkteve joushqimore”.
- ["17"]Neni 12, LIGJ Nr.9902, datë 17.4.2008 “Për Mbrojtjen e Konsumatorëve”, i ndryshuar me Ligjin Nr.10 444, datë 14.7.2011.