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(IGE Consumer)

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Agenda Item 3d. Dispute resolution and redress

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Questionnaire for UNCTAD secretariat note on: Dispute Resolution and Redress IGE on Consumer Protection Law and Policy July 2018

Background

The second session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy requested "the UNCTAD secretariat, in accordance with guideline 97(b) to prepare reports and studies, taking into account the input from member States and other relevant stakeholders, for the third session of the IGE on the following topics:

a. Dispute resolution and redress"¹

The work of UNCTAD relating to dispute resolution and redress comprises:

- [TD/B/C.I/CLP/23](#): Implementation report on the United Nations Guidelines for Consumer Protection (2013): paras. 25 - 27
- Report on modalities for the revision of the United Nations Guidelines for Consumer Protection (2015): paras. 54(financial services), 67 (other issues), 82 (implementation)
- [A/RES/70/186](#) 22 December 2015 on Consumer Protection:
- [United Nations Guidelines for Consumer Protection](#): 5(g); 11(f) 15; 14(g); Section F, 37-41; 44(d), 77

The UNCTAD secretariat will produce a background note to serve as basis for discussions at the third session of the IGE on consumer protection.

Objective

The objective of this questionnaire is to feed into the background note which will provide a general and global overview of the state of dispute resolution and redress in light of the revised United Nations Guidelines for Consumer Protection (UNGCP). The note will contain proposed questions for discussions as well as recommendations for follow-up.

Questionnaire

The UNCTAD secretariat is circulating the present questionnaire to officially designated contact points for the purpose of the UNGCP and relevant stakeholders participating in the IGE. The answers received will not be made public unless requested by the interested respondent and will be attributed to the institution.

Respondents should answer to their best knowledge, answers will not be considered official positions.

¹ [TD/B/C.I/CPLP/9](#): Report of the Intergovernmental Group of Experts on Consumer Protection Law and Policy on its second session

Name of country:

Bulgaria

Name of institution:

Ministry of Economy,
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Question 1: What legal avenues do consumers have to obtain redress? And which ones are the most effective?

Consumers can address directly the trader responsible for the consumer detriment;
Consumers may submit a complaint to the sectoral or horizontal regulator;
Consumers may submit a claim to ADR bodies, such as conciliation commissions;
Finally, consumers can go to the court
Consumers in the EU can also submit a claim to the **European Consumer Centres for disputes having cross-border element.**

The ECC helps **boost consumer confidence** by:

- **providing consumers with information** on their rights as regards buying goods and services in another EU country;
- **advising** them in case of problems; and
- **assisting** them through complaint handling, so they can take full advantage of the single market.

ADR bodies should be considered as the most effective avenue for consumer redress.

Alternative dispute resolution for consumer disputes in Bulgaria is available for consumers from all 28 EU Member States. The Commission for Consumers Protection in Bulgaria carries out activities of alternative resolution of consumer dispute through **15 conciliation commissions** and provide information to consumers how to submit a complaint to the conciliation commissions.

Source of law: Law on Consumer Protection, which transposes requirements of *Directive 2013/11/EU of the European parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes* and *Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes.*

Scope of application: Domestic and cross-border disputes concerning contractual obligations stemming from sales contracts or service contracts between a trader established on the territory of the European Union and a consumer resident on the territory of the European Union.

Question 2: What legal avenues do consumers have to access dispute resolution? And which ones are the most effective?

**mediation;
conciliation procedure;
arbitration procedure**

Directive 2013/11/EU on **alternative dispute resolution for consumer disputes** ensures that – as an alternative to going to court – consumers can submit their contractual disputes with traders over sales or service contracts to ADR entities that need to comply with binding quality requirements. It is expected that, in the future, a considerable portion of consumer disputes will be settled through ADR.

The 2013 ADR Directive obliges Member States to ensure that EU-resident consumers have access to ADR for settling contractual disputes with EU-established traders in virtually every retail sector (including tourism).

Member States are free to decide on what types of ADR entities (e.g. conciliation, mediation, consumer arbitration, ombudsmen) they want to rely for ensuring such "full ADR coverage".

The Directive establishes binding quality requirements that apply to all such procedures (e.g. the requirements of fairness, transparency and independence; requirement that the procedures need to be free for consumers or available for consumers at a nominal cost; requirement that ADR entities need to accept cross-border disputes.

The list of the ADR entities that have so far been notified to the European Commission can be viewed on the ODR platform (<https://webgate.ec.europa.eu/odr>).

Question 3: What are the key characteristics for an effective out-of-court/alternative dispute resolution mechanism?

The following should be considered as key characteristics for an effective out-of-court dispute resolution mechanism:

1. mandatory/voluntary participation in out-of-court dispute resolution mechanisms by traders. Mandatory participation of trader in the procedure should be preferred;
2. binding/non-binding nature of the procedural outcome. Binding outcome of the procedure is to be favoured;
3. funding of the out-of-court resolution mechanisms.
4. compulsory jurisdiction + binding nature of the decision + appeal to court;
5. sectoral vs single cross-sector ADR body. The first option is preferred, i.e. the sectoral approach.

Question 4: Summarize (include link if possible) the most salient court decisions regarding consumer issues

Unfortunately, there is no availability of such a link in Bulgaria.