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**Implementation of the United Nations Guidelines for Consumer Protection:
Guideline no. 78**

*Contribution of the International Association of Consumer Law
(IACL)*

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Contribution paper – Agenda 1. Implementation of the United Nations Guidelines for Consumer Protection - Guideline no. 78

The International Association of Consumer Law - IACL together with the Committee on the International Protection of Consumers of the International Law Association - ILA wants to compliment Dr. Teresa Moreira and the IGE for their very competent and insightful contribution for the protection of consumers in the world, and reinforce the need for UNCTAD's continuous effort on this subject in the follow years.

The IACL and the Committee would like to stress the need of further development of Guideline paragraph no. 78¹ on the protection of tourists, particularly in cross-borders cases, by enhancing international enforcement cooperation. The newest developments at the Hague Conference on Private International Law of the so called 'Tourism Project'² is that a 'Guidebook' directed to providing international tourists information relating to online dispute resolution schemes and the existing Hague Conventions and Principles linked to the matter would be useful to assist them in pursuing their claims. These conclusions will be presented to the Council on General Affairs and Policy (CGAP) of the Hague Conference on Private International Law (HCCH) at its 2021 meeting.

The new focus of this soft law instrument are the tourists and visitors, not to States, and it will be made in form of a Guidebook, being, thus, limited to list and describe the existing Online Dispute Resolution existing platforms for international tourists. As such, it is not directed to countries and their lawmakers, which would be a better option so as to appropriately implement UNGP Guideline paragraph no. 78, as it stresses the need for states to ensure their policies are adequate to address tourist-consumer issues. Consequently, it reopens the question of whether UNGP Guideline no. 78 should be dealt by the IGE, and if a working group should be created in order to discuss further option for enforcing cooperation among countries related to the protection of tourist-consumers.

The two Hague Conference Consultants' Reports have concluded there is a legal gap in providing proper Access to Justice to international tourists due to the impossibility of commencing or continuing legal proceedings from abroad. The COVID-19 crisis has not only enhanced this gap further, but also shown other problems. The closure of borders and social distancing measures have affected international tourists who have had issues with cancellations, refunds and information of different kinds, being unable to fulfill their basic rights as consumers due to the inexistence of an international collaboration network that could assist them amid such difficulties. Therefore, the goal of ensuring adequate Access to Justice for tourists in cross border cases, and the need of enforcing international cooperation not only regionally, but globally, remain to be a great challenge.

The discussion at the HCCH have shown UNGP Guideline paragraph no. 78 could help not only international tourists, but in particularly emerging and developing countries, by helping them to

¹ UNGCP GL. 78. Tourism. Member States should ensure that their consumer protection policies are adequate to address the marketing and provision of goods and services related to tourism, including, but not limited to, travel, traveller accommodation and timeshares. **Member States should, in particular, address the cross-border challenges raised** by such activity, including enforcement cooperation and information-sharing with other Member States, and should also cooperate with the relevant stakeholders in the tourism-travel sector.

² See <https://www.hcch.net/en/projects/legislative-projects/protection-of-tourists> (Ac. 18.10.2020)

restart international tourism and building worldwide confidence on the sector, as it all starts with the international protection of tourists as consumers. The IACL and the Committee on International Protection of Consumers are convinced that the IGE on consumer protection (UNCTAD) can play a positive role in the future for the implementation of the Guideline paragraph no. 78 worldwide.

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