

CONSUMER PROTECTION

2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Improving and strengthening the system of out-of-court settlement of consumer disputes.	2022		√	
Promoting the protection of consumer rights and interests at the local level.	2013		√	
Ongoing work on consumer education and implementation of topics in the field of consumer protection in primary and secondary education curricula.	2014		√	

CURRENT SITUATION

The National Assembly of the Republic of Serbia adopted a new Law on Consumer Protection in 2021, which, while retaining some earlier solutions, provides for a lot of innovation with the aim of improving consumer protection and position in relation to previous solutions. The Law entered into force on 19 September 2021, and its application starts after the expiration of three months from the day of entry into force (except for the provisions of Articles 149 to 169, which apply from 20 March 2022).

In addition to referring to the provisions of the Constitution of the Republic of Serbia, the reasoning of the Law also refers to Article 78 of the Stabilization and Association Agreement, which stipulates that the parties will encourage and ensure a policy of active consumer protection in accordance with Community Law and the harmonization of the Consumer protection legislation in Serbia with the protection which is already in force in the EU community. When it comes to strategic planning in this area, the Consumer Protection Strategy for the period 2019-2024 envisages legislative measures in order to improve the consumer protection system in accordance with new challenges on the world market and more complete protection in accordance with EU best practice.

One of the most significant innovations brought by the new Law is the significant improvement of the mechanism of out-of-court settlement of consumer disputes (which does not exclude and does not affect the exercise of the right to judicial protection). The new solution defines out-of-court settlement of consumer disputes as a way of resolving disputes between consumers and traders before the body for out-of-court settlement of consumer disputes entered in the List of bodies for out-of-court settlement of consumer disputes. Proceedings before the body can be initiated by the consumer only if they have previously

raised a complaint or objection to the trader and the trader is now obliged to participate in the out-of-court settlement of consumer disputes proceedings before the body. The fine for those who refuse to participate in mediation or do not publish a notice that the buyer has the right to an out-of-court settlement of the dispute is RSD 50,000 (Approximately EUR 425). Although this way of resolving disputes has existed before, so far, traders in practice avoided participating in the process, they only rejected complaints on goods and referred dissatisfied customers to court, and those consumers often opted not to pursue the matter to court. The Law introduces an obligation for the competent courts for resolving consumer disputes to keep records of these disputes and to submit data from the records to the Ministry of Justice.

The Law also introduced the so-called "Do not call" register of telephone numbers of consumers who do not want receive calls of traders who offer goods / services by telephone which is kept by the regulatory body responsible for electronic communications, which should prevent or reduce aggressive business practices that exist through multiple telephone calls to consumers. Namely, the consumer who wants his telephone number to be found in the register, fills in the form and submits it to the operator whose network he uses, and the operator forwards the data on the telephone number to RATEL (The Regulatory Agency for Electronic Communications and Postal Services).

The new Law also improved and more precisely defined the complaint procedure (after two years from the purchase, the complaint is declared to the issuer of the guarantee and the Law introduces the obligation to receive the complaint for the seller addressing previous problems in practice related to the rejection of complaints by the seller), the obligation to prepare a calculation and specifications of the sale price of the service (for value of services

greater than RSD 5,000 (approximately EUR 42). The necessary parts of the invoice issued for services of general economic interest is prescribed, and the prohibition of unfair business practices covers all phases of purchase (this legal specifying is very important, considering that it provides room for more comprehensive implementation of inspection supervision).

The implementation of the new Law provides greater protection for consumers in exercising the rights under the travel contract. One significant novelty is the binding nature of pre-contract information, which stipulates that passengers must be provided with information of other expenses, which are not included in the single sale price of a tourist trip, therefore the passenger will not be obliged to bear them unless they are informed.

The Law now introduces the possibility of issuing misdemeanor warrants in the domain of traders' liability, i.e., it prescribes a fixed fine in the amount of RSD 50,000, (Approximately EUR 425) for legal entities and RSD 30,000 (Approximately EUR 255) for entrepreneurs, for certain misdemeanours. Longer statutes of limitations are also prescribed, so misdemeanor proceedings cannot be initiated or conducted if two years have elapsed from the day when the misdemeanor was committed (previously, the one-year statute of limitations established by the Law on Misdemeanours was applied).

Work on amendments to the Law on Consumer Protection is ongoing in order to improve regulations and harmonize with European regulation.

POSITIVE DEVELOPMENTS

Although the previous Law presented a significant step forward in terms of ensuring a high level of consumer protection, during the implementation of the previous Law certain shortcomings were observed which affected the unsatisfactory level of consumer protection, which the new Law, with its numerous improvements, should take to a higher level.

One example of the improvement is the introduction of an out-of-court settlement obligation, an attempt to ease pressure on the courts, as well as to stimulate consumers to continue the process of exercising their rights at no additional cost, which in the past has been the reason consumers have given up on court proceedings.

Significant advances are also established restrictions on direct advertising, so the Law foresees a ban on direct advertising by phone, fax or e-mail and other means of long-distance communication, without the prior consent of the consumer.

One of the major innovations and improvements is the introduction of the "Do Not Call" registry, which will serve as a consumer database for those who have expressed their preference not to receive promotional calls and/or messages for the promotion and/or sale of specific goods or services. A consumer who does not wish to be contacted by merchants or agencies engaged in promotion or research will contact their electronic communications operator, with whom they have a contract, and request to be included in the registry. It is the obligation of merchants or promoters to check the registry before contacting consumers to ensure that a specific phone number is not on the list of numbers not to be called.

Also observed is the higher engagement of the Consumer protection association through educations of consumers on their rights, organizing round tables during which significant topics in this area were discussed as well as testing consumer products and informing consumers on perceived irregularities etc. The Law itself provides additional obligations for consumer protection associations as well as service providers of general economic interest, and they apply to complaints commissions and advisory bodies.

Collaboration has been established between the association (counselling center) and other institutions, primarily with the inspection authorities (market inspection). According to reports from the association (counselling center) in 2022, regional consumer counselling centers have forwarded a total of 1,157 complaints to the inspection authorities.

Positive improvements have also been visible on the at the level of local administrative units and competent state institutions (including primarily ministries, inspection departments and courts), where, various types of education on consumer protection were organized, such as trainings for employees, conferences and round tables, all with the aim of raising the level of their expertise and implementation of EU standards, as well as government activities to improve the framework for e-commerce development. According to the research of the Serbian Chamber of Commerce, e-commerce has doubled during

the state of emergency compared to the time before the COVID-19 pandemic, and the growth of online commerce is expected in the coming period.

The new Law should, as previously announced, give greater protections to passengers in tourism, and it is planned to harmonize the consumer rights of Serbian citizens with the new regulations of the European Union on travel in package deals and related travel arrangements.

REMAINING ISSUES

Although the Law formally establishes a greater balance in the relations between traders and consumers, the results in practice still attest to the fact that this relationship is still far from equal. Data from the Ministry of Trade and the National Consumer Complaints Registry Report indicate that the situation regarding this matter is almost identical to last year. In regional consumer counselling centers, a total of 22.869 complaints were recorded during the period of -2022 which is nearly the same number of complaints as last year. Data on consumer complaints by place of purchase show that the majority of consumers still make purchases in a traditional manner, at retail stores, in 90.59% of cases. Online purchases accounted for 7.01% of cases, door-to-door purchases for 1.18% of cases, while phone purchases, promotion purchases, catalogue purchases, and TV shopping accounted for less than 1% of the total number of consumer complaints by place of purchase.

Regarding out-of-court resolution of consumer disputes, there has been a noticeable shift since the adoption of the new law. This is evidenced by the fact that in 2021, when there was no obligation for traders to participate in out-of-court dispute resolution, there were only seven proceed-

ings compared to 779 proposals for initiating proceedings since July 2022 when the IT platform for out-of-court consumer dispute resolution was activated. Given that out-of-court resolution of consumer disputes has been in practice for about a year, it may still be too early to provide a final assessment of the effectiveness of the process.

Although the new law was enacted in 2021, compliance with it and the establishment of the "Do Not Call" registry have not yet been implemented. It is expected that the "Do Not Call" registry will be established in the near future, with a deadline for the completion of the user database set for September 2023.

Consumer Protection Associations insist that insufficient information of consumers is another cause of consumer problems and occurs as a result of a lack of notification of consumers prior to the conclusion of the contract as a legal obligation of the trader, which is necessary for a reasonable selection of offered goods or services. It is necessary to strengthen competition across the supply of goods and services on the market and continue to carry out activities to raise consumer awareness of their rights and mechanisms for achieving them, so that consumers make rational economic decisions about buying goods or services.

Efforts should be made to enable associations to become independent in their work, and one way to achieve this is by empowering them through networking and cooperation with local government.

Although there have been noticeable improvements in terms of educating and informing consumers about their rights, it is necessary to actively continue campaigns throughout Serbia in order to balance consumer information in all regions of Serbia.

FIC RECOMMENDATIONS

- Improving and strengthening the system of out-of-court settlement of consumer disputes.
- Promoting the protection of consumer rights and interests at the local level.
- Ongoing work on consumer education and implementation of topics in the field of consumer protection in primary and secondary education curricula;