

Enhancing Consumer Protection in Greece through the Enactment of Directive 2020/1828

Directive 2020/1828 regarding representative actions for the protection of the collective interests of consumers has been enacted into Greek legislation via Law No. 5019/2023, which amended Law No. 2251/1994 on consumer protection.

It should be noted that, even prior to the enactment of Law No. 5019/2023, Greek law did encompass provisions on the protection of consumers' collective rights, through their representation by competent Consumer Associations. However, these provisions were revised upon transposition of the aforementioned Directive, thus fortifying the consumer protection framework concerning the defense of their collective interests.

Specifically, the updated provisions introduce detailed requirements for establishing consumer associations, delineating their responsibilities and competences. The previous provision, which required consumer associations to have at least 500 active members and be registered in the relevant registry for a minimum of two years to be enabled to bring representative actions, has been abolished. Presently, consumer associations are authorized to bring representative actions upon approval of the Ministry of Development and Investments, provided they demonstrate genuine public activity for at least 12 months before applying for authorization, while simultaneously disclosing information about such activity on their website. Upon obtaining the relevant authorization, the Association is registered in the registry, as set forth below.

Additionally, the General Secretariat of Commerce – instead of each Prefecture separately, as previously provided for - keeps the 'Consumer Associations Registry'. This Registry comprises two subcategories: one specifically for associations authorized to bring representative actions and another for other consumer associations. To bring a representative action, a consumer association must be registered in the first subcategory of the Registry. A notable aspect of the Directive is the recognition of cross-border representative actions in Greece; such actions can be brought by an association or entity representing consumer interests and designated as authorized for bringing representative actions in another EU member state, listed in the directory compiled and published by the European Commission thereto.

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Furthermore, the financing of the consumer associations is strictly regulated, with a restrictive enumeration of the potential funding sources. Notably, third-party funding for the representative actions is prohibited, and any legal expenses incurred do not burden individual consumers. To further stimulate representative actions, such actions are exempted from judicial stamp.

The request of representative actions may consist in either the cessation or prohibition of illegal behavior of suppliers, or restitution/compensation, including payment of damages or monetary satisfaction, repair, replacement, etc. It shall be emphasized that, for the first time, in the case of a representative action seeking cessation or prohibition of an illegal behavior, the court may impose civil penalties on the supplier in the form of monetary compensation.

In cases where the association seeks restitution by the supplier of the damage suffered by consumers, if the action is upheld by the competent court and the relevant decision becomes final, even individual consumers who have not expressed their explicit consent to be represented by the consumer association during the trial, can benefit from the positive outcome and seek restitution themselves.

The focus of the law, as well as of the Directive, is the continuous provision of information to the consumer public, regarding both the associations authorized to bring representative actions and the actions themselves, especially their subject and outcome. In addition, provisions regarding the settlement of cases concerning the adoption of remedial measures have been updated. Specifically, both parties, namely the Consumer Association and the supplier, may jointly submit a settlement proposal to the competent court for approval. It is noted that under the previous regime, the competence for out-of-court settlement resided within the purview of the respective Prefecture. Settlement agreements approved by the court bind the relevant Association, the supplier, and individual consumers. However, for further protection, individual consumers retain the right to refuse to be bound by the settlement.

In conclusion, a brief comparative analysis of the previous and the standing Greek legislation on the protection of consumers' collective rights reveals notable enhancements aimed at fostering transparency and efficacy on both consumer associations and representative actions. A significant shift has occurred as to the allocation of competence on consumer associations' registration, with the powers of local administrative authorities being relinquished in favor of the General Secretariat of Commerce. This centralization ensures uniformity in addressing consumer-related

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issues across the country. Furthermore, under the revised legislation, the approval and ratification of proposals for out-of-court settlement now rest with the Judiciary, conferring greater credibility and legal standing to the settlement process compared to the previous regime whereby settlements were overseen by administrative authorities.



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