

II. Country report Bulgaria

Document Control

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1.1 Overview of collective redress mechanisms

Collective redress mechanisms for damages suffered by consumers, as a substantial issue of Bulgarian consumer law, were introduced under the first Law on Consumer Protection and Trade Rules 1999 promulgated in State Gazette № 30/1999 and aimed at transposing the consumer *acquis* in Bulgarian legislation. This new law declared and guaranteed the protection of five basic consumer rights, as followed:

- ❑ Right to protection against risks of acquisition of such goods and services that may endanger consumers' lives, health or property;
- ❑ Right to protection of their economic interests in the acquisition of goods and services;
- ❑ Access to court and special out-of-court procedures for consumer protection;
- ❑ Right to establish associations for the purposes of protecting their own interests;
- ❑ Right to information.

Having considered the shortcomings of the consumer protection legislation in force as well as the new developments in the consumer *acquis*, a completely new Law on Consumer Protection was enacted in 2006 (promulgated in State Gazette № 99/2005, in force since 10.06.2006). Provisions of the new Bulgarian consumer statute pursue the implementation of twelve consumer directives¹, among which is also the Directive 98/27/EC of the European Parliament and of the Council of 19.05.1998 on injunctions

¹ Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers, OJ L 80, 18.3.1998, p. 27–31; Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising; Directive 97/55/EC of European Parliament and of the Council of 6 October 1997 amending Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising, OJ L 290, 23.10.1997, p. 18–23; Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises, OJ L 372, 31.12.1985, p. 31–33; Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts; Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, OJ L 11, 15.1.2002, p. 4–17; Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees, OJ L 171, 7.7.1999, p. 12–16; Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products, OJ L 210, 7.8.1985, p. 29–33; Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, OJ L 95, 21.4.1993, p. 29–34; Directive 94/47/EC of the European Parliament and the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis, OJ L 280, 29.10.1994, p. 83–87; Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests, OJ L 166, 11.6.1998, p. 51–55; Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'), OJ L 149, 11.6.2005, p. 22–39.

for the protection of consumer' interests. Moreover, rules aimed at protecting consumers can also be found in other statutes.²

The main objective of Bulgarian consumer law is restoration of the balance of power between contractual parties - on the one side, a businessperson, being an expert in a particular field of trade or production and sometimes with superior market power, and on the other side, a consumer, who usually has a lack of knowledge and expertise in this particular business area. Protection is provided only for a rational consumer, who acts on the market with due diligence, actively searches information about goods and services before their acquisition, and takes all necessary steps for obtaining any required documents regarding the contract (for example, invoices, receipts, guarantee cards, etc.). The application of consumer law provisions is facilitated by proclaiming their superiority in cases of conflicts with other law provisions. According to §1 of Additional Provisions of the Law on Consumer Protection 2006, in such cases those provisions shall be applied which ensure a higher level of consumer protection.

Providing for a comprehensive legal protection of consumers' interests with both public law and private law enforcement mechanisms is an essential feature of Bulgarian consumer legislation. One of these mechanisms is a collective action for consumer protection, brought in a civil court procedure. For the first time in Bulgarian consumer legislation, collective actions for injunctive relief, as well as for damages were regulated in the already abrogated Law on Consumer Protection and Trade Rules 1999 - in art. 52, art. 53, and art. 54. At the present time, collective actions are provided for consumer protection in art. 186, art. 186a, art. 188, and art. 189 of the Law on Consumer Protection 2006, in force. The latter are mainly applied in the field of advertising, unfair contract terms, distribution of goods dangerous for consumers' lives, health or property, utilities, services, etc.

² For instance: Law on Foods (promulgated in State Gazette, № 90/1999, last amendment - State Gazette, № 51/2007), Law on Tourism (promulgated in State Gazette, № 56/2002, last amendment - State Gazette, № 80/2007), Law on Tobacco and Tobacco Products (promulgated in State Gazette, № 101/1993, last amendment - State Gazette, № 109/2007), Law on Technical Requirements to Products (promulgated in State Gazette, № 86/1999, last amendment - State Gazette, № 86/2007), Law on Wine and Alcoholic Drinks (promulgated in State Gazette № 86/1999, last amendment - State Gazette, № 51/2006), Law on Health (promulgated in State Gazette, № 70/2004, last amendment - State Gazette, № 102/2006), Law on Pharmaceutical Products in Human Medicine (promulgated in State Gazette, № 31/2007), Law on Protection of Competition (promulgated in State Gazette, № 52/1998, last amendment - State Gazette, № 64/2007), Law on National Standardisation (promulgated in State Gazette, № 88/2005), Law on Bank Deposit Guarantee (promulgated in State Gazette, № 49/1998, last amendment - State Gazette, № 86/2006), Law on Consumer Credit (promulgated in State Gazette, № 53/2006, last amendment - State Gazette, № 105/2006), Law on e-Commerce (promulgated in State Gazette, №51/2006, last amendment - State Gazette, № 41/2007), Law on Distance Marketing of Consumer Financial Services (promulgated in State Gazette, № 105/2006), etc.

Currently, there are rules regarding three main types of collective actions for consumer protection:

- ❑ Collective action for injunctive relief - for cessation or prohibition of any infringement harmful to collective consumers' interests - art. 186 and art. 186a of the Law on Consumer Protection 2006;
- ❑ Collective action for damages to the collective consumers' interests - art. 188 of the Law on Consumer Protection 2006;
- ❑ Collective action for damages suffered by consumers - art. 189 of the Law on Consumer Protection 2006.

Moreover, the provisions of Chapter IX, Section III, art. 186-190 of the Law on Consumer Protection regarding collective redress mechanisms for injunctive relief and for damages shall also be applicable in a case of infringement of the provisions of the Law on Distance Marketing of Consumer Financial Services (art. 20) and the Law on e-Commerce (art. 22).

According to Bulgarian legislation in force, in addition to collective redress mechanisms for damages consumers may bring individual court actions for compensation of incurred damage. Furthermore, consumers are entitled to make a complaint before a conciliation commission for settling the dispute about the damages by virtue of an out-of-court agreement. However, in Bulgarian legal practice, court procedures are considered the most efficient manner of consumer protection, due to binding force of court judgements and possibilities for their enforcement. The main disadvantages of the court procedures are their significant length and the related expenses.

In conclusion, Bulgarian legislation consists of provisions for the collective redress mechanisms for damages suffered by consumers which provisions comply with the consumer *acquis*. Their efficient application in practice is a great challenge for the state authorities in charge of consumer protection, for consumer associations, and for each consumer.

1.1.1 *Collective redress mechanism 1: Collective Action for Damages to Collective Consumers' Interests*

Summary description

According to provisions of Bulgarian consumer protection legislation in force, art. 188 of the Law on Consumer Protection 2006, any consumer association may file an action for collection of damages to collective consumers' interests. This applies to a damage resulting from any infringement of consumer protection law, notwithstanding the fact that the number of affected consumers is neither definite nor definable, and regardless of whether collective consumers' interests were damaged or exposed to peril. The amount of compensation is estimated by the court in accordance with the principles of fairness. Damages are granted to the consumer association (plaintiff) and have to be spent only for consumer protection activities. This collective redress mechanism is not

aimed at compensation of damage caused to individual interests of identified persons, but to the collective interests of a particular group of consumers, and namely, a group of unidentified, but identifiable consumers incurred damage from the same infringement. Hence, this collective action cannot lead to an award of compensation for consumers. The rule laid down in art. 188 of the Law on Consumer Protection 2006 (in force), corresponds to art. 54 of the Law on Consumer Protection and Trade Rules 1999 (abrogated).

I. Details (abrogated legislation)

A. LEGAL BASIS

Art. 54 of the Law on Consumer Protection and Trade Rules 1999 (entered into force on 06.04.1999, abrogated on 09.06.2006)

B. COMPETENT AUTHORITY

A regional or a district state court, depending on the amount claimed

C. WHO CAN INITIATE THE PROCEDURE – RULES OF STANDING

Any consumer association can initiate the procedure. No requirement exists for it to be a qualified entity according to the Ordinance of the Minister of Economy and Energy³.

D. TYPES OF DISPUTES

A civil law dispute

E. MAIN PROCEDURAL RULES

General Rules of the Code of Civil Procedure⁴ are applicable. Pursuing a special provision (art. 54, para. 2 of the Law on Consumer Protection and Trade Rules 1999), the court of law shall specify the manner in which the plaintiff, at their sole expense, shall notify the other consumer protection associations of filing of the claim. Within a month after the notice, any other consumer protection association may join the litigation.

F. REMEDIES THAT CAN BE OBTAINED

Compensation for a suffered damage shall be granted to the plaintiff - consumer protection association. The amount of compensation shall be defined in accordance with the principles of fairness. If there is more than one plaintiff, the compensation shall be granted jointly to all of them. The latter ones shall be obliged to spend the compensation only for consumer protection purposes.

³ Ordinance № 24 of 24.10.2006 of the Minister of Economy and Energy for the requirements for qualified organisations in Republic of Bulgaria which have legal interest to file actions for protection of collective consumers' interests (Promulgated in State Gazette, № 89/2006)

⁴ Promulgated in State Gazette, № 12/1952, last amendment - State Gazette, № 59/2007. On 01.03.2008, a new Bulgarian Code of Civil Procedure entered into force, promulgated in State Gazette, № 59/2007.

G. COSTS INVOLVED FOR THE PARTIES

Costs consist of:

- ❑ Court fees - 4% of the amount of the claim, but not less than 15 BGN⁵. In case that an appeal is brought to either a court of appeal or to the court of cassation, court fees will be 2% of the amount of the appealed part of the judgement;
- ❑ Experts remuneration - depending on complexity and scope of the tasks - between 500 and 1000 BGN;
- ❑ Advocate fees - depending on the amount of the claim, between 4% and 10% of the amount of the claim.

H. AVERAGE DURATION OF THE PROCEDURE

Civil Litigation Procedure in three-court instances - a court of the first instance, a court of appeal, and the court of cassation. The whole procedure will approximately take between 4 and 6 years.

II. Details (legislation in force)

A. LEGAL BASIS

Art. 188 of the Law on Consumer Protection 2006

B. COMPETENT AUTHORITY

A regional or a district state court, depending on the amount claimed

C. WHO CAN INITIATE THE PROCEDURE – RULES OF STANDING

Any consumer association can initiate the procedure. No requirement exists for it to be a qualified entity according to the Ordinance of the Minister of Economy and Energy.

D. TYPES OF DISPUTES

A civil law dispute

E. MAIN PROCEDURAL RULES

General Rules of the Code of Civil Procedure 1952 remained applicable until 29.02.2008. On 01.03.2008, a new Bulgarian Code of Civil Procedure entered into force. It includes special provisions about collective actions - Chapter 33⁶.

F. REMEDIES THAT CAN BE OBTAINED

Compensation for damage to collective consumers' interests shall be granted to the plaintiff - consumer protection association. The amount of compensation shall be defined in accordance with the principles of fairness. If there is more than one plaintiff,

⁵ Bulgarian national currency is called "lev" (лв), hereafter - BGN. Exchange rate at the time of writing: 1 Euro = 1.96 BGN

⁶ For more details - see below.

the compensation shall be granted jointly to all of them. The latter ones shall be obliged to spend the compensation only for consumer protection purposes.

G. COSTS INVOLVED FOR THE PARTIES

Costs consist of:

- ❑ Court fees - 4% of the amount of the claim, but not less than 15 BGN. In case that an appeal is brought to either a court of appeal or to the court of cassation, court fees will be 2% of the amount of the appealed part of the judgement;
- ❑ Expertise remuneration - depending on complexity and scope of the tasks - between 500 and 1000 BGN;
- ❑ Advocate fees - depending on the amount of the claim, between 4% and 10% of the amount of the claim.

H. AVERAGE DURATION OF THE PROCEDURE

Civil Litigation Procedure in three-court instances - a court of the first instance, a court of appeal, and the court of cassation. The whole procedure will approximately take between 4 and 6 years.

1.1.2 *Collective redress mechanism 2: Collective Action for Damages Suffered by Consumers*

Summary description

This collective redress mechanism is a novelty in Bulgarian consumer legislation. It was introduced by the Law on Consumer Protection 2006. A collective action for damages suffered by consumers can be filed provided that the following prerequisites are met:

- ❑ Consumers who suffered damage are identified and are in number at least two or more;
- ❑ Individual damage, suffered by consumers, has to have been caused by the same producer, importer, businessperson or retailer, as well as has to have derived from the same infringement;
- ❑ A consumer association has to have been explicitly granted by consumers with a power-of-attorney for bringing a claim for damages and for litigation representation.

The designation of this collective redress mechanism is collection of damages to individual interests of at least two identified consumers, represented in the litigation by a consumer association.

Details**I. LEGAL BASIS**

Art. 189 of the Law on Consumer Protection 2006

J. COMPETENT AUTHORITY

A regional or a district state court, depending on the claim amount

K. WHO CAN INITIATE THE PROCEDURE – RULES OF STANDING

Any consumer association, acting as a representative of at least two or more consumers who suffered damage. No requirement exists for to be a qualified entity according to the Ordinance of the Minister of Economy and Energy.

L. TYPES OF DISPUTES

A civil law dispute

M. MAIN PROCEDURAL RULES

General Rules of the Code of Civil Procedure 1952 remained applicable until 29.02.2008. There are some special procedural provisions in the Law on Consumer Protection that were also applicable until 29.02.2008. The court of law shall specify the manner in which the consumer association shall, at their sole expense, make a public announcement about the filing of the claim. Within a month after the announcement, any consumer who suffered damage from the same infringement, may either join the litigation or declare that they will bring an individual claim for damages - art. 189 para. 3 and 4 of the Law on Consumer Protection. All summonses, notices and other announcements addressed to consumers - plaintiffs, shall be sent to the consumer association in its capacity of their representative - art. 189, para. 5 of the Law on Consumer Protection. On 01.03.2008, a new Bulgarian Code of Civil Procedure entered into force. It includes special provisions about collective actions - Chapter 33.

N. REMEDIES THAT CAN BE OBTAINED

Compensation for suffered damage shall be granted to consumers.

O. COSTS INVOLVED FOR THE PARTIES

Costs consist of:

- ❑ Court fees - 4% of the amount of the claim, but not less than 15 BGN. In case that an appeal is brought to either a court of appeal or to the court of cassation, court fees will be 2% of the amount of the appealed part of the judgement;
- ❑ Expertise remuneration - depending on complexity and scope of the tasks - between 500 and 1000 BGN;
- ❑ Advocate fees - depending on the amount of the claim, between 4% and 10% of the amount of the claim.

P. AVERAGE DURATION OF THE PROCEDURE

Civil Litigation Procedure in three-court instances - a court of the first instance, a court of appeal, and the court of cassation. The length of the whole procedure will approximately be between 4 and 6 years.

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With the purpose of facilitating the application of collective redress mechanism in Bulgarian legal practice, special procedural provisions, representing Chapter 33 of the new Code of Civil Procedure, entered into force on 01.03.2008. Since these new rules are only applicable from 01.03.2008 onwards, they are irrelevant to the issue of effectiveness and efficiency of the collective redress mechanisms applied in the study period in Bulgarian law. Nevertheless, a brief overview of those new procedural rules will be given hereafter, since in the following years these new provisions will form tendencies in Bulgarian case law regarding collective actions for consumer protection.

On the first point, provisions of Chapter 33 shall be applicable to any case of damaged collective interests, and not only for protection of consumers' collective interests.

On the second point, collective action shall be brought on behalf of all persons whose collective interests were damaged by the same infringement - Art. 379, para.1 of the Code of Civil Procedure 2008. Although it is not required that these persons be identified, they should be identifiable. Plaintiffs shall be either harmed persons, or organisations established with purpose for protection of the collective interests referred to in Article 1, or organisations established with purpose for protection against the infringement referred to in Article 1 (Art. 379, para. 2 and 3 of the Code of Civil Procedure 2008).

Furthermore, three types of collective action are admissible:

- ❑ Collective action for declaration of the infringement of law and the fault of the infringer - Art. 379, para. 2 of the Code of Civil Procedure 2008;
- ❑ Collective action for injunctive relief - for cessation or prohibition of any infringement harmful to collective interests or for repair of the infringement consequences - Art. 379, para. 3 of the Code of Civil Procedure 2008;
- ❑ Collective action for damages - Art. 379, para. 3 of the Code of Civil Procedure 2008;

The collective actions are under the jurisdiction of the district court in which territory of competence the infringement was committed or the headquarter of the defendant is located in - Art. 380, para. 1 of the Code of Civil Procedure 2008.

The court shall *ex officio* ascertain the plaintiffs' abilities to protect the collective interests responsibly and in conformity with good faith, as well as their ability to carry the costs of the litigation - Art. 381, para. 1 of the Code of Civil Procedure 2008.

Furthermore, the court shall specify the manner in which the bringing of the collective action shall be publicly announced. Within a month after the announcement, any

person who suffered damage from the same infringement, may either join the litigation or declare that they will bring an individual claim for damages - art. 382, para.2 of the Code of Civil Procedure 2008.

Possibility for settlement of the dispute is provided for in art. 384 of the Code of Civil Procedure 2008.

The court judgement has a binding force (*res judicata*) for the infringer, the plaintiffs, and for all persons who suffered damage from the same infringement and have not declared that they will bring individual claim for damages - art. 386, para.1 of the Code of Civil Procedure 2008. Only such a court judgement with which the action has been granted shall also be binding for persons who, within a month period pursuing art. 382, para. 2, declared that they would seek individual redress.

The court may adjudicate the compensation to be deposited in a bank account of one of the plaintiffs, or in a bank account for joined disposition of all the plaintiffs or in a bank account for joined disposition of all harmed persons - art.387 para.1 of the Code of Civil Procedure 2008.

1.2 Overview of relevant literature

For the purposes of the present study, research work was carried out about Bulgarian legal writings (textbooks, monographs, articles) in the field of consumer protection. The inquiry was conducted in several Bulgarian libraries, including the Bulgarian National Library, as well as some online bibliographical resources. It covered both legal books published after 1999 (the year of enactment of the Law on Consumer Protection and Trade Rules) and the issues of the major Bulgarian legal journals released between 1999 and 2007. In particular, these journals are: *Pravna misal* (“Правна мисъл”)⁷, *Savremeno pravo* (“Съременно право”)⁸, *Targovsko pravo* (“Търговско право”), *Juridicheski svjat* (“Юридически свят”)⁹, *Sobstvenost i Pravo* (“Собственост и право”), *Finansi i Pravo* (“Финанси и право”), *Pazar i Pravo* (“Пазар и право”), *Advokatski pregled* (“Адвокатски преглед”)¹⁰.

The review of Bulgarian legal writings reveals a lack of research in the field of collective redress for consumer protection. This result can be explained with the fact that the topic is relatively new for the Bulgarian legal doctrine. Collective action, as one of the means of consumer redress, is an issue of a brief study in two monographs, namely:

- *Goleminov, Tchudomir (2001): Legal Protection of Consumers, Siela - Soft&Publishing, Bulgaria;*

Apart from the collective redress topic itself, the book is also dealing with consumer protection matters in Bulgarian and European legislation, liability for products dangerous for consumers’ lives and health, liability for damages for defective products, consumers’ guarantees and protection against unfair contract terms. However, the book does not treat the particular matter of effectiveness and efficiency of the existing collective redress mechanisms.

- *Sukareva, Zlatka (2001): Civil law means of consumer protection, Feneja, Bulgaria;*

In general, this book provides a comparison between civil liability for delivery of defective goods by virtue of the general Law on Obligations and Contracts 1951¹¹ (art. 195) and liability for defective products in the Law on Consumer Protection and Trade rules 1999. Collective actions for damages are merely enumerated amongst the other means of consumer protection, without providing a thorough analysis of the issue.

⁷ <http://ipn.bas.bg/contents.htm> (last visited on 10.01.2008)

⁸ <http://sibi.bg/display.php?page=cat4> (last visited on 10.01.2008)

⁹ <http://sibi.bg/display.php?page=cat4> (last visited on 10.01.2008)

¹⁰ <http://sibi.bg/display.php?page=cat4> (last visited on 10.01.2008)

¹¹ Promulgated in State Gazette, № 2/1951, last amendment - State Gazette, № 92/2007.

In addition to the monographs, a significant number of information materials are available about consumer protection matters that were published by consumer associations and have chapters devoted to collective actions for consumer protection. The most important of these information materials are the following:

- *Nikolov, B. Varadinov, O. (2004): An European Guide for Bulgarian Consumer, Bulgarian National Consumer Association, Bulgaria;*

In Chapter 9 of the book, p. 102-104, the Directive 98/27/EC on injunctions for the protection of consumers' interests and its implementation in Bulgarian legislation is represented briefly and without any comments on and analysis of the effectiveness and efficiency of this redress mechanism.

- *Nikolov, B. Varadinov, O. (2006): A Guide for Bulgarian Consumer, Bulgarian National Consumer Association, Bulgaria;*

Only in Chapter XI, p.103, a brief and modest presentation of collective actions for damages pursuing the new Law on Consumer Protection is made. The book does not provide any analysis of the effectiveness and efficiency of this new means of consumer protection.

- *Nikolov, B. Varadinov, O. (2006): Collection commentaries of Bulgarian Consumer Law, Bulgarian National Consumer Association, Bulgaria;*

Only in this book, Chapter 4, p. 44-57, a more extensive review of the collective actions for consumer protection in Bulgarian law is made, including some notes about effectiveness and efficiency of the mechanism. The author of this particular chapter is Silvia Ivanova, an expert at the Commission on Consumer Protection. Not only the law provisions, but also some case law, predominantly about actions for injunctive relief, are analysed. Only the *Eurostock Case*, as an example of the collective action for damages, is briefly presented. The main criticisms regarding the effectiveness and efficiency of this new for Bulgarian law redress mechanism are:

1. For the collective action (art. 54 of the Law on Consumer Protection and Trade Rules 1999 (abrogated), art. 188 of the Law on Consumer Protection 2006) - there is no control mechanism provided for ensuring that the consumer association (the plaintiff) spends the awarded damages for consumer protection purposes.
2. The lack of special procedural provisions is considered to be an obstacle for more effective application of this redress mechanism. There are no procedural rules preventing the filing of more than one collective action from different plaintiffs in separate proceedings against the same defendant and for the same infringement. Hypothetically, it can happen that two contradictory judgements are passed in each case; for example, one for awarding the one claim for damages and the other for dismissing the other claim for damages. The possibility for this increases because of the fact that the collective

action for damages has to be brought either before the court in which territorial jurisdiction the infringement was committed or before the court in which territorial jurisdiction the headquarter of the defendant is located.

3. As a significant hindrance decreasing the efficiency and effectiveness of the collective redress mechanism is considered the lack of sufficient knowledge and training of the judges hearing the collective actions. This results in slowness of the proceedings and inconsistency of the court practice.

The conclusion can be drawn that collective redress mechanisms for consumer protection still represent a quite new and undeveloped topic in Bulgarian legal doctrine.

1.3 Difficulties to obtain redress for mass claims

This issue is subject of a complementary study¹² and results from the country studies are integrated therein.

1.4 Collective actions filed so far

According to the available data, only five collective actions for damages have been brought before Bulgarian courts since the first provisions about the collective redress mechanism for consumer protection came into force in 1999. Three of the lawsuits (*Eu. Case*, *E. Case* and *M. Case*) were filed by virtue of Art. 54 of the Law on Consumer Protection and Trade Rules 1999 (abrogated), two of them (*T. and B. Case*) - of Art. 188 and Art. 189 of the Law on Consumer Protection 2006.

Two of the litigations are still pending (*T.* and *M. Case*), one was terminated on the ground of the withdrawal of the action (*E. Case*), one was terminated by the reason of action non-admissibility, and one litigation ended with awarding of damages (*Eu. Case*).

¹² CPEC 2008, Study regarding the problems faced by consumers in obtaining redress for infringements of consumer protection legislation, and the economic consequences of such problems, Final Report (study prepared for DG SANCO).

Table 1: Overview of cases collected – mechanism 1: Collective Action for Damages to Collective Consumers’ Interests - art. 54 of the Law on Consumer Protection and Trade Rules 1999 (abrogated on 09.06.2006):

Case number	Name of case	Brief description of case	Year of filing of original case	Year of final court decision / settlement	Cross-border element
02	Association “Active Consumers” v. Eu. Ltd	Claim for damages to collective consumers’ interests in the amount of 10 200 BGN, a part from a claim with a total amount of 50 000 BGN, derived from the infringements of Law on Foods, Ordinance on Food Labelling, art. 32 of Law of Fair Competition, art. 2, art. 3, para. 1 and art. 5, para. 5 of the Law on Consumer Protection and Trade Rules. The defendant, as a producer of vitamins and mineral tablets, had put on the market 8 types of tablets that consisted of substances significantly different from the substances, specified on the packing.	January 2003	January 2004 - the full amount of damages were awarded.	No information available
04	The Federation of Consumers in Bulgaria and eight individual consumers v. M. JSC and G. Ltd.	The plaintiffs have stated that the defendants M. JSC and G. Ltd have committed infringements of art. 30, para. 2 of Law on Consumer Protection and Trade Rules (a case of misleading advertisement of a game with a SMS applying for participation). This has resulted both in damage to collective consumers’ interests and in individual damage incurred by all customers of the first defendant. Group action on the ground of art. 54 of the Law on Consumer Protection and Trade Rules for damages to collective consumers’ interests in the amount of 1 000 BGN has been jointly filed with individual actions of eight consumers for pecuniary damages in the amount of 43 BGN for every consumer, in a total amount of 350 BGN and for non-pecuniary damages - 1500 BGN for each consumer or altogether 12 000 BGN.	December 2004	The litigation is still pending.	No information available

Case number	Name of case	Brief description of case	Year of filing of original case	Year of final court decision / settlement	Cross-border element
05	National League Consumers of Services v. E. JSC	The plaintiff has stated that the defendant E. JSC, having supplied to 139 towns and villages in Varna region electricity current differing from the Bulgarian State Standard (BDS), has committed infringements of Law on Energetics and Law on Consumer Protection. This has resulted in damage to collective consumers' interests.	April 2006	November 2006 - terminated	No information available

Table 2: Overview of cases collected – mechanism 1: Collective Action for Damages to Collective Consumers' Interests - art. 188 of the Law on Consumer Protection 2006 (in force):

Case number	Name of case	Brief description of case	Year of filing of original case	Year of final court decision / settlement	Cross-border element
01	Association of Consumers of Telecommunication and Internet Services v. B. JSC and the State Commission for Regulation of Communications	Claim for damages to collective consumers' interests in the amount of 385 000 000 BGN, derived from unreasonable increase of the monthly subscription charge of B. from 6 BGN (with VAT) to 16,56 BGN (with VAT) for customers on "Standard Tariff Plan" for the period of time between 2004 and 2007. The claim has been brought partially for the amount of 400 BGN.	March 2007	June 2007 - terminated	No information available

Case number	Name of case	Brief description of case	Year of filing of original case	Year of final court decision / settlement	Cross-border element
03	The Federation of Consumers in Bulgaria and consumers v. T. JSC, P. Ltd., Consortium "S. & E.", N. Ltd., E. C.-J. Partnership, B. Ltd., T. Ltd., D. Ltd., I. Ltd., T. Ltd., K. Ltd., A. Ltd., T. Ltd., R. Ltd.	The plaintiffs have stated that the first defendant T. as the utility for Sofia heat generation and distribution, and the other defendants, as companies for heating accountancy, have committed infringements of Law on Energetics, Ordinance № 2 for Central Heating Supply, Law on Consumer Protection and Law on Bulgarian State Standard (BDS) with respect to reading of individual consumers' heating meters and to calculation of individual consumers' bills. As a result of these infringements, overcharging in the amount of about 33% from the bills paid by consumers has occurred for the period between October 2002 and April 2006. This has resulted in both damage to collective consumers' interests and in individual damage incurred for all customers of the defendants.	November 2006	The litigation is still pending.	No information available

Table 3: Overview of cases collected – mechanism 2: Collective Action for Damages Suffered by Consumers - art. 189 of the Law on Consumer Protection 2006:

Case number	Name of case	Brief description of case	Year of filing of original case	Year of final court decision / settlement	Cross-border element
03	The Federation of Consumers in Bulgaria and consumers v. T, P. Ltd., Consortium "S. & E.", N. Ltd., E. –J. Partnership, B. Ltd., T. Ltd., Direct Ltd., I. Ltd., T. Ltd., K. Ltd., A. Ltd., T. Ltd., R. Ltd.	The plaintiffs have stated that the first defendant T., as the utility for Sofia heat generation and distribution, and the other defendants, as companies for heating accountancy, have committed infringements of the Law on Energetics, Ordinance № 2 for Central Heating Supply, Law on Consumer Protection and Law on Bulgarian State Standard (BDS) with respect to reading of individual consumers' heating meters and to calculation of individual consumers' bills. As a result of these infringements, overcharging in the amount of about 33% from the bills paid by consumers has occurred for the period between October 2002 and April 2006. This has resulted both in damage to collective consumers' interests and in individual damage incurred for all customers of the defendants. Note: case is also brought under mechanism 1.	November 2006	The litigation is still pending.	No information available

1.5 Hypothetical example cases

The following section contains data concerning the costs of 3 “hypothetical example cases”. A “hypothetical example case” is hereby understood as being an action proceeding which is “invented” on basis of existing cases, and defined through the type of individual damage suffered by a number of consumers, the sector, the category of law, the value of the case, the affected number of consumers, etc. For each case are analysed:

- a) *The availability of group actions, representative actions, test case procedures and procedures for skimming-off profits (brought by an intermediary).*
- b) *The effects on consumers who do not bring the collective action.*
- c) *The expected costs of the action (court fees, costs of paying the lawyer, other costs, if applicable).*
- d) *The estimated time involved to get information on the case, for preparation of file, coordination, court hearings etc. required from consumers and the intermediary (please do not consider time effort involved of any lawyer paid by the intermediary, as this is covered by the lawyer’s fee).*
- e) *The existence and relevance of public support, third party financing, contingency fees etc. for bringing the action.*
- f) *Is there a “loser pays principle”? Which percentage of the costs of the winning side would be covered by the losing side? In the case of collective redress: Which amount would have to be paid by consumers participating in the action, if the case is lost?*

In all cases it is assumed that claims are brought at the same court. The consumers are not in a state of poverty and are not eligible for legal aid targeted exclusively at the poor. All cases are decided after appeal.

1.5.1 Case 1 - telecommunication

Due to a technical defect, the telecommunications services provider T has miscalculated the duration of all telephone calls made by customers as being 2-3 percent longer than they were in reality, resulting in extra profits of 1 million Euro. 100,000 customers suffered damages; with certain differences as to the individual case. The consumer organisation or other intermediary preparing the claim estimates the average damage per consumer to be 1 Euro per month. The service provider claims to have repaired the defect after 10 months. Therefore the average damage per consumer could be estimated at 10 Euro.

- *If the relevant mechanism is an opt-out system: consumer organisation or other intermediary represents all consumers (combined value of claims 1 million Euro)*
- *If the relevant mechanism is an opt-in system: consumer organisation or other intermediary could mobilise 1,000 consumers (combined value of claims 10,000 Euro)*

a) The availability of group actions, representative actions, test case procedures and procedures for skimming-off profits (brought by an intermediary).

Considering the facts, both Collective action for damages to the collective consumers' interests (art. 188 of the Law on Consumer Protection 2006) and Collective action for damages suffered by consumers (art. 189 of the Law on Consumer Protection 2006) shall be available.

b) The effects on consumers who do not bring the collective action.

In case a collective action for damages to the collective consumers' interests (art. 188 of the Law on Consumer Protection 2006) has been brought, there are no consumers, participating in the litigation as plaintiffs; hence, no consumers will receive a part from the awarded damages. The granted compensation shall stay at the disposition of the consumer association (the plaintiff) and has to be spent for consumer protection activities. Individual consumers, suffered damages from the same infringement, may bring individual claims.

In case of collective action for damages suffered by consumers (art. 189 of the Law on Consumer Protection 2006), damages will be granted only to consumers, who have brought the collective action. Other consumers may seek individual redress for damages.

c) The expected costs of the action (court fees, costs of paying the lawyer, other costs, if applicable).

See tables below.

d) The estimated time involved to get information on the case, for preparation of file, coordination, court hearings etc. required from consumers and the intermediary (please do not consider time effort involved of any lawyer paid by the intermediary, as this is covered by the lawyer's fee).

See tables below.

e) The existence and relevance of public support, third party financing, contingency fees etc. for bringing the action.

See tables below.

f) Is there a "loser pays principle"? Which percentage of the costs of the winning side would be covered by the losing side? In the case of collective redress: Which amount would have to be paid by consumers participating in the action, if the case is lost?

A "loser pays all" principle is applicable. The winning side shall be entitled to receive from the losing side such amount of its own litigation costs, which is proportionate to the amount at which, the claim has been granted. Moreover, the winning side shall have to pay to the losing side such amount of the litigation costs of the latter, which is proportionate to the amount at which, the claim has been rejected¹³.

¹³ According to art. 64, para.1, 2 and 3.of Code of Civil Procedure.

For example, if the collective group action (art.188 of the Law on Consumer Protection) has been brought for 1 million Euro (1 955 830 BGN), and this claim has been partially granted for an amount of 400 000 Euro (782 332 BGN) and partially rejected for an amount of 600 000 Euro (1 173 498 BGN). The total amount of the plaintiff's costs is 275 136 BGN (see Table 1A) and let us assume that the amount of the defendant's costs is 100 000 BGN. In such case, the plaintiff (consumer association) has to pay to the defendant part of their costs estimated as $1\,173\,498 / 1\,955\,830$ from 100 000 BGN i.e. 60 000 BGN. On the other side, the defendant has to pay to the plaintiff part of the costs estimated as $782\,332 / 1\,955\,830$ from 275 136 BGN i.e.110 054, 40 BGN.

Let us assume that the collective representative action (art. 189 of the Law on Consumer Protection) has been brought from 1000 consumers in the total amount of their claims 10 000 Euro (19 558 BGN). These claims have been partially granted for a total amount of 4000 Euro (7823 BGN) and partially rejected for a total amount of 6000 Euro (11 735 BGN). The total amount of each plaintiff's costs is 27.5 BGN (see Table 1B) and let us assume that the amount of the defendant's costs is 1 000 BGN. In such case the plaintiffs (consumers) have to pay to the defendant part of their costs estimated as $11\,735/19558$ from 1000 BGN, i.e. 600 BGN. Since the plaintiffs are 1000 consumers, then each has to pay 0.60 BGN as defendant's costs. On the other side, the defendant has to pay to the each plaintiff (consumer) part of the costs estimated as $7823/19558$ from 27.5 BGN, i.e. 10.99 BGN.

Table 4A: Estimates regarding hypothetical example case 1 - telecommunications

	Estimated court fees* [national currency]	Estimated lawyer's fees** [national currency]	Other costs, if any (technical and financial expertises) [national currency]	Public support that is available [national currency]	Estimated time*** involved	Comments
Collective redress: Collective Action for Redress of Damages to the Collective Consumers' Interests - art.188 of the Law on Consumer Protection 2006						
<i>For each individual consumer</i>	0 BGN	0 BGN	0 BGN	0 BGN	0 hours	Individual consumers do not participate in the litigation
<i>For intermediary filing the action</i>	156466BGN:* *** I instance: 78233 BGN II instance: 39117 BGN; III instance: 39117 BGN	118 370BGN: I instance: 39457 BGN II instance: 39457 BGN; III instance: 39457 BGN	3000 BGN: I instance: 1000 BGN II instance: 2000 BGN;	0 BGN	About 16-20 working days**** of one person from full-time staff	Estimation made on basis of total amount of the claim 1 million Euro (1955830 BGN) for three instances and the plaintiff has paid court fees for appeals to a court of appeal and to a court of cassation. Estimated time is for three court instances on basis of Time-sheet Annex 3.

	Estimated court fees* [national currency]	Estimated lawyer's fees** [national currency]	Other costs, if any (technical and financial expertises) [national currency]	Public support that is available [national currency]	Estimated time*** involved	Comments
Individual redress (through ordinary court procedure)						
<i>For each individual consumer</i>	23 BGN: I instance: 15 BGN II instance: 8 BGN.	300 BGN: I instance: 100 BGN II instance: 200 BGN.	500 BGN: I instance: 200 BGN II instance: 300 BGN;	0 BGN	47-50 hours	Estimation made on basis of average amount of the claim 10 Euro (19.56 BGN) of one consumer for two instances and the plaintiff has paid court fees for appeal to a court of appeal ¹⁴ . Estimated time is for two court instances on basis of Time-sheet Annex 5.
Individual ADR: Conciliation commissions						
<i>For each individual consumer</i>	0 BGN	100 BGN	0 BGN	0 BGN	19 hours	Estimated time is on basis of Time-sheet Annex 6.

¹⁴ Pursuing art. 218a, (1), letter (a) of the Code of Civil Procedure 1952, an appeal to a court of cassation is inadmissible against a civil claim judgement with an amount under 5000 BGN.

Table 4B: Estimates regarding hypothetical example case 1 - telecommunications

	Estimated court fees* [national currency]	Estimated lawyer's fees** [national currency]	Other costs, if any (technical expertise) [national currency]	Public support that is available [national currency]	Estimated time*** involved	Comments
Collective redress: Collective Action for Redress of Damages to Consumers - art.189 of the Law on Consumer Protection 2006						
<i>For each individual consumer</i>	23 BGN: I instance: 15 BGN II instance: 8 BGN.	total amount is 1462 BGN/for each consumer - 1,5 BGN: I instance: 731 BGN/0,73 BGN II instance: 731 BGN/0.73 BGN.	total amount is 3000 BGN/for each consumer - 3 BGN: I instance: 1000 BGN/1 BGN II instance: 2000 BGN/2 BGN.	0 BGN	39-42 hours	Estimation made on basis of 1000 claims each in the amount of 10 Euro (19.56 BGN) i.e. total amount of the claims is 10 000 Euro (19558 BGN) for two instances and the plaintiffs have paid court fees for appeals to a court of appeal ¹⁵ . Estimated time is for two court instances on basis of Time-sheet Annex 4.
<i>For intermediary filing the action</i>	0 BGN	0 BGN	0 BGN	0 BGN	About 70 - 75 working days of one person from full-time staff	Estimated time is for two court instances on basis of Time-sheet Annex 4.

¹⁵ Pursuing art. 218a, (1), letter (a) of the Code of Civil Procedure 1952, an appeal to a court of cassation is inadmissible against a civil claim judgement with an amount under 5000 BGN.

	Estimated court fees* [national currency]	Estimated lawyer's fees** [national currency]	Other costs, if any (technical expertise) [national currency]	Public support that is available [national currency]	Estimated time*** involved	Comments
Individual redress (through ordinary court procedure)						
<i>For each individual consumer</i>	23 BGN: I instance: 15 BGN II instance: 8 BGN.	300 BGN: I instance: 100 BGN II instance: 200 BGN.	500 BGN: I instance: 200 BGN II instance: 300 BGN;	0 BGN	47-50 hours	Estimation of fees made on basis of average amount of the claim 10 Euro (19.56 BGN) of one consumer and the plaintiff has paid court fees for appeal to a court of appeal. Estimated time is for two court instances on basis of Time-sheet Annex 5.
Individual ADR: Conciliation commissions						
<i>For each individual consumer</i>	0 BGN	100 BGN	0 BGN	0 BGN	19 hours	Estimated time is on basis of Time-sheet Annex 6.

Notes:

* Court fees given on basis of art. 55 (a) of Code of Civil Procedure 1952 and Tariff №1 on Court, Prosecution and Criminal Investigation Unit Fees, passed by Decree №167/1992 of the Council of Ministers of Republic of Bulgaria, promulgated in State Gazette № 71/1992;

** Lawyer's fees given on basis of art. 7, para. 2 of Ordinance № 1/2004 of Bar Association Council on Minimum Advocate Fees, promulgated in State Gazette №64/2004;

*** The estimated time involved for getting information on the case, preparation of file, coordination, court hearings etc. required from consumers and the intermediary (please do not consider time effort involved of any lawyer paid by the intermediary or consumer, as this is covered by the lawyer's fee);

**** Estimation made on basis of Bulgarian National Bank fixed rate - 1 EUR=1.95583 BGN (leva)(<http://www.bnb.bg/bnb/home.nsf/fsWebIndex> last visited on 14.01.2008);

***** One working day is 8 hours - art. 136 para.3 of Bulgarian Labour Code, promulgated in State Gazette №26/1986, last amendment -State Gazette №104/2007;

1.5.2 Case 2 – financial services

Enterprise E released a third tranche of shares (230 million shares, 60 Euro per share). Following this, the value of the shares decreased rapidly during the next three years (to 10 Euro per share), leading to a loss in shareholder value of 11.5 billion Euro. Shareholders claimed that they had been victims of false information (considerably overestimated property; concealment of the burdensome acquisition of a foreign competitor) contained in the company's prospectus when the shares were put on the market. 15,000 investors bring their claims to the court, with an average value of the claim being 7,000 Euro each. The combined value of the claims is therefore 105 million Euro.

a) The availability of group actions, representative actions, test case procedures and procedures for skimming-off profits (brought by an intermediary).

Considering the facts, Collective action for damages suffered by consumers (art. 189 of the Law on Consumer Protection 2006) shall be available.

b) The effects on consumers who do not bring the collective action.

In case of Collective action for damages suffered by consumers (art. 189 of the Law on Consumer Protection 2006), damages will be granted only to consumers, who have brought the collective action. Other consumers may seek individual redress for damages.

c) The expected costs of the action (court fees, costs of paying the lawyer, other costs, if applicable).

See table below.

d) The estimated time involved to get information on the case, for preparation of file, coordination, court hearings etc. required from consumers and the intermediary (please do not consider time effort involved of any lawyer paid by the intermediary, as this is covered by the lawyer's fee).

See table below.

e) The existence and relevance of public support, third party financing, contingency fees etc. for bringing the action.

See table below.

f) Is there a “loser pays principle”? Which percentage of the costs of the winning side would be covered by the losing side? In the case of collective redress: Which amount would have to be paid by consumers participating in the action, if the case is lost?

A “loser pays all” principle is applicable. The winning side shall be entitled to receive from the losing side such amount of its own litigation costs, which is proportionate to the amount at which, the claim has been granted. Moreover, the winning side shall

have to pay to the losing side such amount of the litigation costs of the latter, which is proportionate to the amount at which, the claim has been rejected¹⁶.

For example, the collective representative action (art.189 of the Law on Consumer Protection) has been brought from 15000 consumers with a total amount of the claims 105 million Euro (205 362 150 BGN). These claims have been partially granted for a total amount of 40 million Euro (78 233 200 BGN) and partially rejected for a total amount of 65 million Euro (127 128 950BGN). The total amount of each plaintiff's costs is 1920 BGN (see Table 2) and let us assume that the amount of the defendant's costs is 100 000 BGN. In such case the plaintiffs (consumers) have to pay to the defendant part of their costs estimated as $127\,128\,950/205\,362\,150$ from 100 000 BGN i.e. 61 904 BGN. Since the plaintiffs are 15 000 consumers, then each of them has to pay 4,13 BGN as defendant's costs. On the other side, the defendant has to pay to the each plaintiff (consumer) part of the costs estimated as $78\,233\,200/205\,362\,150$ from 1920 BGN i.e. 731.40 BGN.

¹⁶ According to art. 64, para.1, 2 and 3.of the Code of Civil Procedure.

Table 5: Estimates regarding hypothetical example case 2 – financial services

	Estimated court fees* [national currency]	Estimated lawyer's fees** [national currency]	Other costs, if any (financial expertise) [national currency]	Public support that is available [national currency]	Estimated time*** involved	Comments
Collective redress: Collective Action for Redress of Damages to Consumers - art.189 of the Law on Consumer Protection 2006						
<i>For each individual consumer</i>	1095 BGN: I instance: 548 BGN; II instance: 274 BGN; III instance: 274 BGN.	total amount is 12322749 BGN/ for each consumer - 822 BGN: I instance: 4107583 BGN/ 274 BGN; II instance: 4107583 BGN/ 274 BGN; III instance: 4107583 BGN/ 274 BGN.	total amount 3000 BGN/ for each consumer - 3 BGN: I instance: 1000 BGN/ 1 BGN; II instance: 2000 BGN/ 2 BGN;	0 BGN	87-90 hours	Estimation made on basis of 15 000 claims, each in the amount of 7000 Euro (13691 BGN) i.e. total amount of the claims 105 million Euro (205 362 150 BGN) for three instances and the plaintiffs have paid court fees for appeals to a court of appeal and to a court of cassation. Estimated time is for three court instances on basis of Time-sheet Annex 4.
<i>For intermediary filing the action</i>	0 BGN	0 BGN	0 BGN	0 BGN	950 - 955 working days**** of one person from full-time staff	Estimated time is for three court instances on basis of Time-sheet Annex 4.

	Estimated court fees* [national currency]	Estimated lawyer's fees** [national currency]	Other costs, if any (financial expertise) [national currency]	Public support that is available [national currency]	Estimated time*** involved	Comments
Individual redress (through ordinary court procedure)						
<i>For each individual consumer</i>	1095 BGN: I instance: 548 BGN; II instance: 274 BGN; III instance: 274 BGN.	1842 BGN: I instance: 614 BGN; II instance: 614 BGN; III instance: 614 BGN.	500 BGN: I instance: 200 BGN; II instance: 300 BGN.	0 BGN	97-100 hours	Estimation made on basis of amount of the individual claim of 7000 Euro (13 691 BGN) for three instances and the plaintiff has paid court fees for appeals to a court of appeal and to a court of cassation. Estimated time is for three court instances on basis of Time-sheet Annex 5.
Individual ADR: Conciliation commissions						
<i>For each individual consumer</i>	0 BGN	100 BGN	0 BGN	0 BGN	19 hours	Estimated time is on basis of Time-sheet Annex 6.

Notes:

* Court fees given on basis of art. 55 (a) of the Code of Civil Procedure 1952 and Tariff №1 on Court, Prosecution and Criminal Investigation Unit Fees, passed by Decree №167/1992 of the Council of Ministers of Republic of Bulgaria, promulgated in State Gazette №71/1992;

** Lawyer's fees given on basis of art.7, para.2 of Ordinance №1/2004 of Bar Association Council on Minimum Advocate Fees, Promulgated in State Gazette №64/2004;

*** The estimated time involved for getting information on the case, preparation of file, coordination, court hearings etc. required from consumers and the intermediary (please do not consider time effort involved of any lawyer paid by the intermediary or consumer, as this is covered by the lawyer's fee).

**** Estimation made on basis of Bulgarian National Bank fixed rate - 1 EUR=1.95583 BGN (leva) (<http://www.bnb.bg/bnb/home.nsf/fsWebIndex> last visited on 14.01.2008);

***** One working day is 8 hours - art. 136 para.3 of Bulgarian Labour Code, promulgated in State Gazette №26/1986, last amendment -State Gazette №104/2007;

1.5.3 Case 3 - tourism

The tour operator T advertised on its website a “last-minute package” called “4-star” in which the consumers were supposed to be offered services in various hotels on various locations (Greece, Tunisia, etc.) in the 4-star category. However, the hotels were in very bad shape and in spite of the request of consumers no other accommodation was provided. The tour operator also categorically rejected all written claims of consumers for compensation. The only argument of the trader for rejection was that last-minute arrangements meant lower quality of services. About 500 travellers are affected, of which 200 claim a refund of 250 Euro each (which is 10% of the total price of the package). The combined value of the claims is therefore 50,000 Euro.

a) The availability of group actions, representative actions, test case procedures and procedures for skimming-off profits (brought by an intermediary).

Considering the facts Collective action for damages suffered by consumers (art. 189 of the Law on Consumer Protection 2006) shall be available.

b) The effects on consumers who do not bring the collective action.

In case of Collective action for damages suffered by consumers (art. 189 of the Law on Consumer Protection 2006), damages shall be granted only to consumers, who have brought the collective action. Other consumers may seek individual redress for damages.

c) The expected costs of the action (court fees, costs of paying the lawyer, other costs, if applicable).

See table below.

d) The estimated time involved to get information on the case, for preparation of file, coordination, court hearings etc. required from consumers and the intermediary (please do not consider time effort involved of any lawyer paid by the intermediary, as this is covered by the lawyer’s fee).

See table below.

e) The existence and relevance of public support, third party financing, contingency fees etc. for bringing the action.

See table below.

f) Is there a “loser pays principle”? Which percentage of the costs of the winning side would be covered by the losing side? In the case of collective redress: Which amount would have to be paid by consumers participating in the action, if the case is lost?

A “loser pays all” principle is applicable. The winning side shall be entitled to receive from the losing side such amount of its own litigation costs, which is proportionate to the amount at which, the claim has been granted. Moreover, the winning side shall

have to pay to the losing side such amount of the litigation costs of the latter, which is proportionate to the amount at which, the claim has been rejected¹⁷.

For example, the collective representative action (art.189 of the Law on Consumer Protection) has been brought from 200 consumers with a total amount of the claims 50 000 Euro (97 792 BGN). These claims have been partially granted for a total amount of 20 000 Euro (39 117 BGN) and partially rejected for a total amount of 30 000 Euro (58 675 BGN). The total amount of each plaintiff's costs is 57 BGN (see Table 3) and let us assume that the amount of the defendant's costs is 1000 BGN. In such case the plaintiffs (consumers) have to pay to the defendant part of their costs estimated as $58\,675 / 97\,792$ from 1000 BGN, i.e. 600 (599.99) BGN. Since the plaintiffs are 200 consumers, then each of them has to pay 3 (2.99) BGN as defendant's costs. On the other side, the defendant has to pay to the each plaintiff (consumer) part of the costs estimated as $39117/97792$ from 57 BGN i.e. 22.80 BGN.

¹⁷ According to art. 64, para.1, 2 and 3.of the Code of Civil Procedure.

Table 6: Estimates regarding hypothetical example case 3 – tourism

	Estimated court fees* [national currency]	Estimated lawyer's fees** [national currency]	Other costs, if any (financial expertise) [national currency]	Public support that is available [national currency]	Estimated time*** involved	Comments
Collective redress: Collective Action for Redress of Damages to Consumers - art.189 of the Law on Consumer Protection 2006						
<i>For each individual consumer</i>	30**** BGN: I instance: 20 BGN; II instance: 10 BGN.	total amount is 4592 BGN/ for each consumer - 22 BGN: I instance: 2296 BGN/11 BGN; II instance: 2296 BGN/11 BGN.	total amount 1000 BGN/ for each consumer - 5 BGN: I instance: 400 BGN/ 2 BGN; II instance: 600 BGN/ 3 BGN;	0 BGN	39-42 hours	Estimation made on basis of 200 claims each in the amount of 250 Euro (489 BGN) i.e. a total amount of the claims 50 000 Euro (97792 BGN) for two instances and the plaintiffs have paid court fees for appeals to a court of appeal ¹⁸ . Estimated time is for two court instances on basis of Time-sheet Annex 4.
<i>For intermediary filing the action</i>	0 BGN	0 BGN	0 BGN	0 BGN	26-30 working days***** of one person from full-time staff	Estimated time is for two court instances on basis of Time-sheet Annex 4.

¹⁸ Pursuing art. 218a, (1), letter (a) of Code of Civil Procedure 1952, an appeal to a court of cassation is inadmissible against a civil claim judgement with an amount under 5000 BGN.

	Estimated court fees* [national currency]	Estimated lawyer's fees** [national currency]	Other costs, if any (financial expertise) [national currency]	Public support that is available [national currency]	Estimated time*** involved	Comments
Individual redress (through ordinary court procedure)						
<i>For each individual consumer</i>	30 BGN: I instance: 20 BGN; II instance: 10 BGN.	500 BGN: I instance: 200 BGN; II instance: 300 BGN.	500 BGN: I instance: 200 BGN; II instance: 300 BGN.	0 BGN	47-50 hours	Estimation made on basis of amount of the individual claim of 250 Euro (489 BGN) for two instances and the plaintiff has paid court fees for appeal to a court of appeal. Estimated time is for two court instances on basis of Time-sheet Annex 5.
Individual ADR: Conciliation commissions						
<i>For each individual consumer</i>	0 BGN	100 BGN	0 BGN	0 BGN	19 hours	Estimated time is on basis of Time-sheet Annex 6.

Notes:

* Court fees given on basis of art. 55 (a) of the Code of Civil Procedure 1952 and Tariff №1 on Court, Prosecution and Criminal Investigation Unit Fees, passed by Decree №167/1992 of the Council of Ministers of Republic of Bulgaria, promulgated in State Gazette №71/1992;

** Lawyer's fees given on basis of art.7, para.2 of Ordinance №1/2004 of Bar Association Council on Minimum Advocate Fees, Promulgated in State Gazette №64/2004;

*** The estimated time involved for getting information on the case, preparation of file, coordination, court hearings etc. required from consumers and the intermediary (please do not consider time effort involved of any lawyer paid by the intermediary or consumer, as this is covered by the lawyer's fee).

**** Estimation made on basis of Bulgarian National Bank fixed rate - 1 EUR=1.95583 BGN (leva) (<http://www.bnb.bg/bnb/home.nsf/fsWebIndex> last visited on 14.01.2008);

***** One working day is 8 hours - art. 136 para.3 of Bulgarian Labour Code, promulgated in State Gazette №26/1986, last amendment -State Gazette №104/2007;

1.6 Effectiveness and efficiency of collective redress mechanisms

In the following section, both collective redress mechanisms existing in Bulgaria are discussed jointly. Where necessary, differences between the mechanisms are pointed out.

1.6.1 Effectiveness of current collective redress mechanisms

Objectives

1. Does the collective redress mechanism fulfil the objectives of the national law which introduced it?

As described above, there is not much case-law with regard to collective redress mechanisms in Bulgaria, which makes difficult the assessment of their potential to achieve the objectives set by the law. At the present time it seems safe to conclude, though, that collective redress mechanisms introduced in Bulgarian legislation fulfil (only) to some extent the set objectives. The main reasons for this partial effect can be summarized as follows:

- ❑ Collective actions for consumer protection are a relatively new means of redress and Bulgarian lawyers and consumers will need more time, information and experience to become better acquainted with them;
- ❑ Conservatism and inefficiencies in the Bulgarian judicial system, the length of civil litigations and the scale of litigation expenditures represent significant obstacles for achieving the social effect which was intended to be achieved when this new means of consumer protection was introduced.

2. Has the mechanism enabled consumers to obtain satisfactory redress in cases which they would not otherwise have been able to adequately pursue on an individual basis?

Collective representative action for individual damages suffered by consumers is only available since 2006 under art.189 of the Law on Consumer Protection. The mechanism is designed to lower the threshold for consumers to go to court, in that it enables consumers to share the cost of legal representation and expertise. However, as may be seen from the description of cases (above), there have been no successful collective representative actions under art.189 so far. Accordingly, with regard to the relatively short period of existence of this provision, the question must be answered in the negative. However, some interview partners expressed the opinion that the procedure would enable consumers to save money and makes the access to expertise easier. It remains to be seen whether these advantages materialise in the future.

Incentives provided

3. a) Does the mechanism ensure a change in the behaviour of the defendant, which results in the reduction of future harm to all consumers?

Yes, there are already cases in which the bringing of the collective action for damages seemingly affected the market behaviour of the defendant in the direction of improving

the quality of services (*E. Case*) and of taking into consideration the consumers' interests (*T. Case*)¹⁹. Experience shows that the collective action for damages is more efficient when it is joined with the collective action for injunction as well as combined with other means of consumers' protection, for instance, with protests against administrative rules or acts facilitating unfair commercial practices, as well as publicity campaigns.

3 b) Does the mechanism have a preventive effect and deter potential offenders, for instance by skimming off the profit gained from the incriminated conduct?

Notwithstanding the relatively few collective redress cases in Bulgaria, it is apparent that this mechanism for consumer protection can have a preventive effect against potential infringements damaging collective consumers' interests. Those of consumer associations that have once brought a collective action for damages to collective consumers' interests, reportedly gain social influence and good reputation. Provided that subsequent violations of the law have been committed by another company, sometimes even only a press release of this consumer association announcing the preparation of a new collective action for damages is sufficient to affect the market behaviour of the company, in that the law-violating behaviour is terminated and the damage prevented from occurring. For example, after having filed the collective actions against *T. JSK*, the representatives of the Federation of Consumers in Bulgaria gave an interview about their intentions for bringing a collective action for damages against *S. JSC* for the reason of poor quality of drinking water supplied in Sofia and Sofia Region. After the publishing of the interview, the water supply utility undertook measures for improving the quality of water²⁰. The intensity of the preventive effect of the collective redress for damages to collective consumers' interests seems to depend on the economic sector in which the damage occurred, as was pointed out during the interviews conducted. The higher the competition in the sector, the stronger seems to be the preventive effect and *vice versa*.

3 c) Does the mechanism provide incentives and sufficient opportunity for out-of-court settlement?

As a general rule in Bulgarian civil court procedure, the plaintiff and the defendant can settle their dispute at any stage of the proceeding, by using an out-of-court or a court settlement. Furthermore, the judge before whom the case is pending has to call on the parties to settle the dispute, including by means of mediation procedure - by virtue of art. 109, para. 1, and art. 124 of the Code of Civil Procedure 1952 (in force until 29.02.2008), art. 11, para. 2 of the Law on Mediation, as well as of art. 145, para. 3, art. 149 and art. 384 of the Code of Civil Procedure 2008. In conclusion, in Bulgarian legislation there are sufficient opportunities and mechanisms for settlement of any dispute, including the disputes about damage caused to collective consumers' interests. However, a tendency to avoid settlements, as a manner of solving disputes, appears to be typical for Bulgarian legal culture.

¹⁹ Information has been provided by the leading solicitors of the cases and by consumer associations, filed the actions.

²⁰ According to information, provided from the Federation of Consumers in Bulgaria.

4. Does the mechanism discourage the introduction of unmeritorious claims? Is there a “gatekeeper procedure” to certify whether a collective action is admissible to the court or not. If yes, how does it work?

According to civil procedure legislation that was in force until 29.02.2008, the judge before whom the collective action for damages is pending, at the first point has to ascertain admissibility of the action. This examination includes compulsory procedural prerequisites, as active civil legal capacity of the plaintiff, jurisdiction of the court, legal interest for filing the action, etc., as well as the absence of procedural impediments, for instance, expiration of the preclusive term, *res judicata* on the same matter between the same parties, etc. Apart from these general requirements, after 01.03.2008, pursuant to the provisions of Chapter 33 of the new Code of Civil Procedure (art. 381), the court shall additionally *ex officio* determine the plaintiff’s ability to protect the collective interests responsibly and in conformity with good faith, as well as their ability to carry the costs of the litigation. In case these conditions are not met, the court shall not proceed with the collective action. This “gate-keeper” procedure is aimed at preventing consumer associations from bringing collective actions without sufficient financial and organisational resources for carrying out the litigation and achieving efficient protection of harmed consumers. The procedure is criticized by consumer associations in Bulgaria for predetermining the failure of almost every collective action due to the poor financial status of Bulgarian organisations for consumer protection. The “gate-keeper” procedure by virtue of art. 381 of Code of Civil Procedure 2008 is considered by them as unnecessary for the following reasons. At first, it is exactly for the reason of their limited financial resources that consumer associations would choose very carefully in which cases to bring a collective action, taking into consideration what the real prospects are for obtaining an award of damages. Moreover, consumer associations would not have an interest in filing unjustified collective action, because the negative outcome of the litigation may shake the trust of the consumers. And last not least there are fears that courts might abuse their discretion when applying art. 381.

Accessibility

5. Is the mechanism easily accessible to consumers? [Costs, rules of standing, length of proceedings and other factors hindering or facilitating access for consumers to the mechanism should be considered]

In the interviews conducted, the general tendency was to answer this question in the affirmative, because such actions are, in accordance with Art. 186 of the Consumer Protection Act, publicly announced in the press, and because consumers may share the costs for a (good) lawyer and for experts.

Taking these views and the results of the analysis conducted in this study into account, it can be concluded that in Bulgaria there are two main factors that are determining the access for consumers to collective redress mechanisms. On the one hand, the advantage of collective action for damages is that consumers either do not have to bear any litigation costs (group action for damages) or share such expenditures among themselves (representative action for damages) so that the individual amount of the costs of every consumer decreases. On the other hand, the absence of special provisions in Bulgarian legislation for the costs and the length of the proceeding of

collective actions for damages diminishes to some extent the differences in accessibility between collective action for damages and individual action for damages.

6. What are the litigation costs of collective redress for consumers compared to individual redress? What is the risk of the consumer if case is lost?

The same rules for calculating litigation costs are applicable to collective and to individual actions for damages. In both cases, the plaintiff is obligated to pay: (a) court fee - 4% of the amount of the claim - for filing the case and 2% of the amount of the appealed part of the judgement - for appeals to a court of appeal and to the court of cassation; (b) advocate fees, estimated on the ground of the Tariff of Bar Association; and (c) experts remuneration, assessed by the court. The advantage of collective actions for damages is that either all the litigation costs are at the expense of the consumer association-plaintiff (group action for damages to collective interests - art. 188 of the Law on Consumer Protection), or the consumers-plaintiffs share such expenditures (at least advocate fees and experts remuneration) among themselves (representative action for damages - art. 189 of the Law on Consumer Protection) so that the individual amount of the costs of each consumer decreases.

The principle “loser pays all” is applicable to both individual and collective actions for damages.

When the group action for damages to collective interests (art. 188 of the Law on Consumer Protection) is rejected, the plaintiff – (consumer association) may be ordered to pay the litigation expenditures of the defendant. In such cases, no individual consumer may be charged with the defendant's costs.

The situation is different in the representative action for damages litigation (art. 189 of the Law on Consumer Protection), when the consumers are the real plaintiffs. When the collective action is dismissed, the consumers-plaintiffs may be ordered to pay the litigation expenditures of the defendant.

Financing and distribution of proceeds

7. Are actions under the mechanism financed in a way which ensures that consumers are able to obtain effective legal representation? Are there mechanisms of public support for the party that brings forward a collective action (the intermediary²¹), are contingency fees/conditional fees²² allowed? What is the risk of the intermediary if a case is lost?

The practice of application of collective redress mechanisms for damages in Bulgaria shows that the litigation costs are predominantly covered by either the consumers or consumer associations, and in some rare occasions, by law firms.

²¹ A collective action is usually brought forward by an intermediary that organizes the action on behalf of consumers. This can be a public intermediary (e.g. an ombudsman), a representative organisation as intermediary (e.g. a consumer organisation) or private intermediaries (e.g. a private law firm/an individual consumer taking the lead in an action). Intermediaries may also engage a private lawyer who is not considered to be an intermediary in this context, as long as he or she is not responsible for organizing the action.

²² Contingency fees are lawyer's fees that consist of a percentage of the damages awarded. Conditional fees are (possibly additional) fees that are paid in case of success, but not related to the damages awarded.

In case of a group action for damages to collective interests (art. 188 of the Law on Consumer Protection), costs are at the expense of association, the plaintiff. Consumer associations in Bulgaria do not receive any public financial support for the purposes of filing collective actions. Only the consumer associations qualified by the Minister of Economy and Energy are entitled of financial support from the state budget²³. However, this support is for the general activity of the organisations, not for facilitating collective action litigations. Furthermore, this financial support is considered insufficient by the consumer associations. There are no special law provisions for facilitating consumer association by means of reducing or discharging litigation costs. The association-plaintiff bears the risk to be charged with the litigation expenditures of the defendant, if the group action for damages to collective interests has been dismissed.

In case of a representative action for damages - art. 189 of the Law on Consumer Protection - consumers-plaintiffs usually provide for all litigation expenses. Sometimes, advocate fee and experts remuneration are at the expense of the consumer association, acting as a consumers' representative. The "loser pays all" principle is applicable, hence the consumers-plaintiffs may be charged with the litigation expenditures of the defendant, if the group action for damages is rejected.

Consumers that are in the state of poverty or are disabled persons are eligible to legal aid, according to the Law on Legal Aid²⁴. A special public authority - the National Bureau for Legal Aid - shall appoint an advocate for the affected person, and the advocate fees shall be covered by the state budget.

8. Are proceeds of collective redress actions distributed in an appropriate manner amongst plaintiffs and their representatives?

In case of a group action for damages to collective interests (art. 188 of the Law on Consumer Protection) the granted compensation is not distributed among harmed consumers. It stays with the association and has to be spent only for consumers' protection activities - art. 188, para. 4 and 5.

When a representative action for damages (art. 189 of the Law on Consumer Protection) is successful, the court order will include an award of compensation for each plaintiff (consumer) separately, i.e. the distribution is made by the court according to the damage suffered by each consumer.

1.6.2 Efficiency of available mechanisms

Length of proceedings

9. Is the length of the proceedings under the mechanism reasonable for consumers, consumer organisations, public bodies, and the defendants?

There are no special provisions regarding the length of proceedings of collective actions for damages²⁵. In general, the length of civil proceedings in Bulgaria is

²³ Ordinance RD-16-511/07.06.2006 of the Minister of Economy and Energy on requirements and procedure for supplying state financial support to consumers organisations, promulgated in State Gazette № 49/2006.

²⁴ Promulgated in State Gazette №79/2005, last amendment - State Gazette № 30/2006.

²⁵ Special rules are enacted for the collective actions for injunctive relief. Pursuing art. 126a, para. 1 (t) of the Code of

significant (4-6 years) which discourages consumers and diminishes the effectiveness of collective redress mechanisms.

Costs for consumers, consumer organisations and public bodies

10. Are the costs related to bringing an action under the mechanism for consumers, consumer organisations and public bodies proportionate to the amount in dispute?

The litigation costs (court fees and advocate fees) of collective actions for damages to collective consumers' interests are proportionate to the amount of the claim - art. 7, para. 2 of Ordinance of Bar Association Council on Minimum Advocate Fees²⁶, and sec. A, para. 1 of Tariff № 1 on Court, Prosecution and Criminal Investigation Unit Fees²⁷. They were also considered by the great majority of interview partners as proportionate and not too high.

11. Does the mechanism minimise litigation costs for consumers?

Bulgarian practice for application of collective action for damages indicates an affirmative answer to this question.

In case of a group action for damages to collective interests (art. 188 of the Law on Consumer Protection), costs are at the expense of the association-plaintiff and individual consumers are not charged with litigation expenditures.

In case of a representative action for damages - art. 189 of the Law on Consumer Protection, each consumer-plaintiff usually has to cover the court fees of their individual claim for damages, while the other expenditures (advocate fees and experts remuneration) are shared among all consumers-plaintiffs so that the individual amount of these costs of each consumer decreases. Sometimes, advocate fee and experts remuneration are even at the expense of the consumer association, acting as a consumers' representative.

Costs for businesses

12. *Information costs*: Does the mechanism impose requirements on businesses (in terms of being informed about the existing collective redress mechanisms and providing related information to public authorities) that lead to additional costs? Do these costs weigh in heavily on Small and Medium Enterprises (SMEs)?

There is no available data that the businesses in Bulgaria have been forced to enter into additional costs for gaining information about the collective redress mechanisms. As a matter of fact, most of the businesses either have their own legal departments or

Civil Procedure 1952 referring to art. 186 of Law on Consumer Protection collective actions for injunction have to be proceeded within about a month and a half period.

²⁶ Promulgated in State Gazette №64/2004.

²⁷ Passed by Decree №167/1992 of the Council of Ministers of Republic of Bulgaria, promulgated in State Gazette №71/1992, last amendment - State Gazette №105/2006.

receive from law firms legal services rendered for a monthly flat fee, so that extra information costs are not likely.

13. *Litigation costs and related insurance costs: Are cost for businesses for (legal) insurance (for litigation and for damages) and the litigation costs under the existing collective redress mechanisms unreasonable?*

There is no evidence indicating that the litigation expenditures or civil liability insurance premium under the collective redress mechanisms represent an unreasonable burden for Bulgarian businesses.

14. *Is the economic impact on traders against whom actions have been brought under the mechanism proportionate to the alleged harm caused by the trader's conduct?*

The lack of case law hampers the assessment about what the economic impact of the collective redress mechanisms is. In one case, Bulgarian consumers stopped to pay their bills to the company against which collective actions for injunction and damages were brought (*T. JSC*). Undoubtedly, this “punitive” consumers’ act caused economic loss of the company.

15. *Does the mechanism lead to the closing down of businesses?*

For the time being, there is no evidence indicating that businesses have been declared bankrupt or have gone into liquidation because of a collective action for damages brought against them.

However, there are occasions in which currency exchange offices were closed down following an individual consumer action for damages caused by fraud in exchange rates, as well as a criminal prosecution for the same criminal offence.

Competitiveness and investment flows

16. *Does the mechanism have an impact on the competitive position of EU firms in comparison with their non-EU rivals?*

Most Interview partners did not consider such an impact likely. Due to the relatively short period of existence and application in Bulgaria, as well as because of the lack of case law, it is difficult to draw the conclusion that collective redress mechanisms for consumer protection have the potential to increase or decrease the competitive power of EU companies in comparison with their non-EU rivals.

17. *Does the mechanism provoke cross-border investment flows (including relocation of economic activity in Member States which do not have any collective redress mechanisms?)*

There are no data available on whether the introduction of regulation of collective actions for damages to consumers in Bulgarian legislation has caused cross-border investment flows from Bulgaria. Such an effect seems highly unlikely.

1.6.3 **Added value of available mechanisms**

18. What is the added value of the collective redress mechanism(s) compared to individual judicial redress and ADR schemes, i.e. what is achieved by the mechanism(s) that is not achieved by individual redress?

Notwithstanding the insufficient court practice regarding application of collective redress mechanisms for damages to consumers in Bulgaria, this new means of consumer protection has already revealed its potential for achieving social effects that are unattainable by means of individual judicial redress and ADR schemes:

- ❑ It has been proved that bringing a collective action for damages may provoke the change of market behaviour of the businesses in a direction more favourable for consumers;
- ❑ Publicity and public interest, focused on collective actions for consumer protection, seem to have a preventive effect against subsequent infringements which no individual redress or ADR scheme is likely to have;
- ❑ Collective actions for damages seem to strengthen the sense of solidarity between consumers. In some cases persons who suffered damages have concerns not only for the protection of their own interests, but also for the protection of interests of other persons harmed by the same infringement. The feeling that they are not alone in seeking redress for suffered damage, and that they can rely on professional and financial support from organisations for consumer protection, can be expected to increase the self-confidence of consumers.

19. Please estimate, what percentage of consumers who were represented in the collective redress cases would likely have undertaken individual redress through ordinary court procedures if no collective redress system was in place (e.g. none, 10%, 50%)?

It is difficult to make such estimation, but based on the experts' opinions from those of Bulgarian consumer associations²⁸ that have brought collective actions, probably less than 10% of consumers represented in collective action litigation would have sought individual redress by means of ordinary court procedure.

²⁸ The Federation of Consumers in Bulgaria and the Union of Insured in Bulgaria.

1.7 Overview of alternative procedures for consumers

1.7.1 *Individual court action*

Is there any data available on the number of consumers seeking individual redress through ordinary court procedures?

The Bulgarian Ministry of Justice²⁹ keeps judicial statistical data about the number of consumers seeking individual redress through ordinary court procedures, but access to this data is restricted.

Please estimate the threshold for claims (in Euro) under which a rational consumer would refrain from seeking individual redress through ordinary court procedures?

In case the amount of suffered damage is less than 500 BGN, it is likely that a rational Bulgarian consumer would refrain from seeking individual redress through ordinary court procedures.

1.7.2 *Individual action – ADR scheme(s)*

Is there an ADR scheme(s) for consumer cases?

Nine conciliation commissions³⁰ are now operating on the territory of Bulgaria. They are run by the Commission on Consumer Protection.

Is there any data or an evaluation report available on the consumer relevant use of the ADR scheme(s)?

The Commission for Consumer Protection (*Комисия за защита на потребителите*) summarizes the activity of the conciliation commissions in its annual report. The report for 2006 is available on the official site of the Commission³¹. For information - see Annex 7. Proceedings before the conciliation commissions are free of charge for consumers.

Please estimate the threshold for claims (in Euro) under which a rational consumer would refrain from seeking redress through an ADR scheme?

As a matter of fact, there is no threshold under which the rational Bulgarian consumer would refrain from seeking redress through the conciliation commissions proceeding.

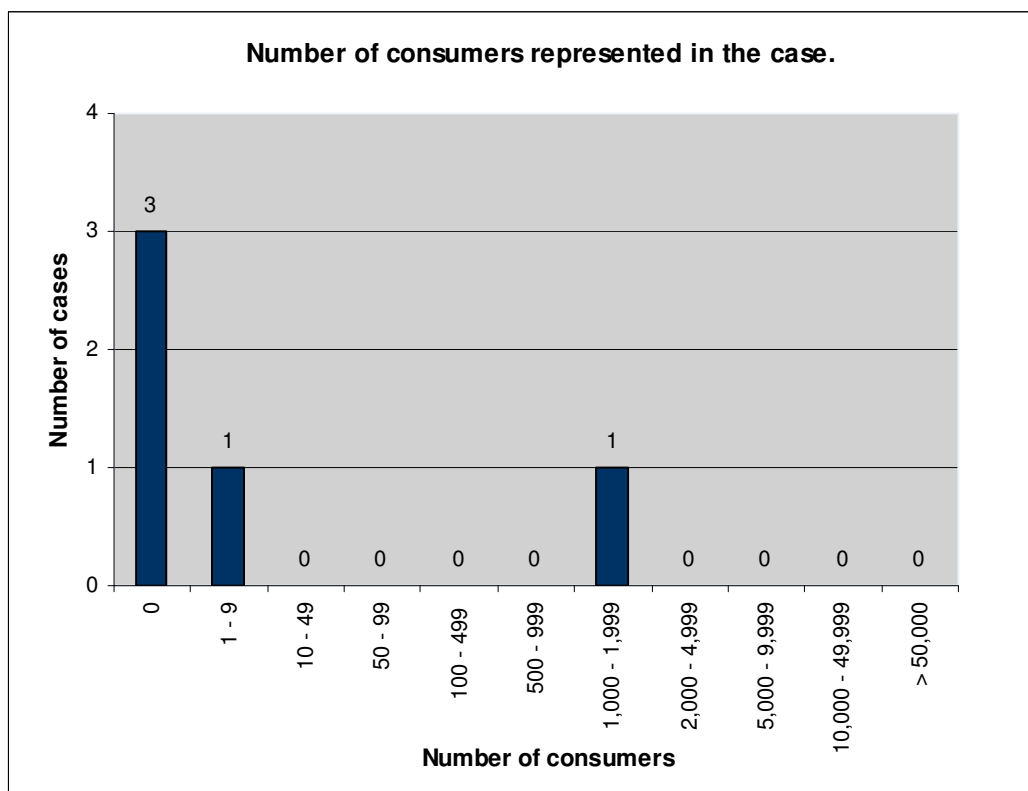
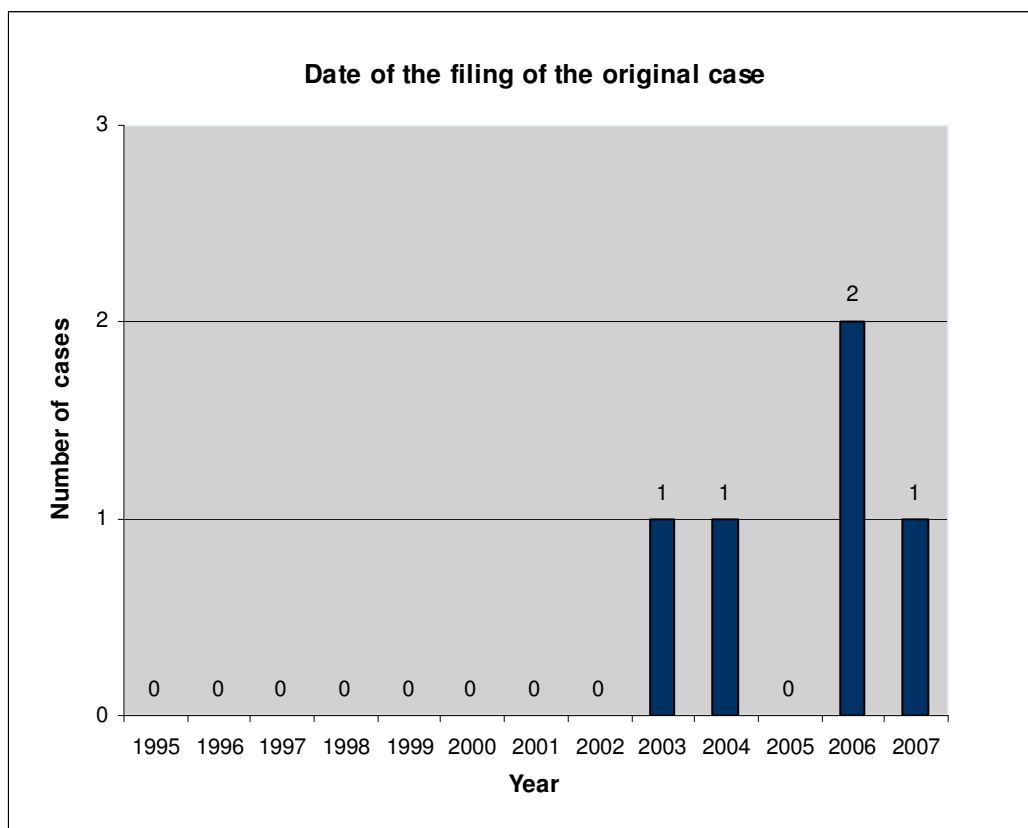
²⁹ <http://www.mjeli.government.bg/Default.aspx?cc=en&>

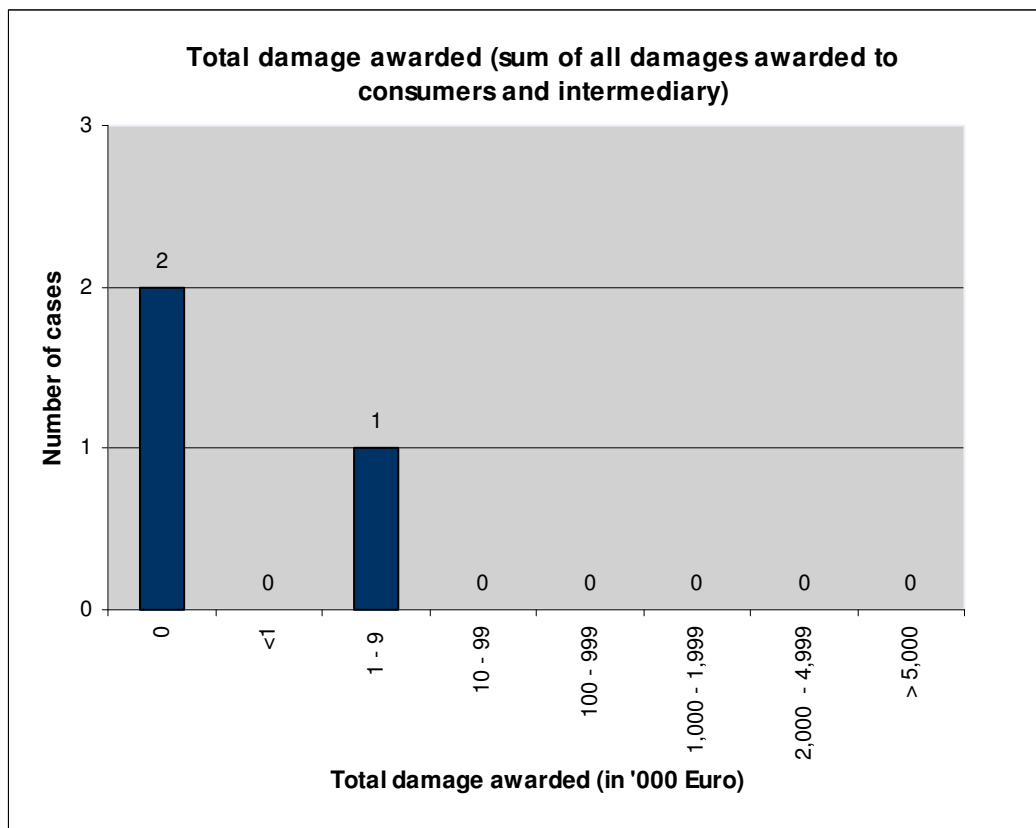
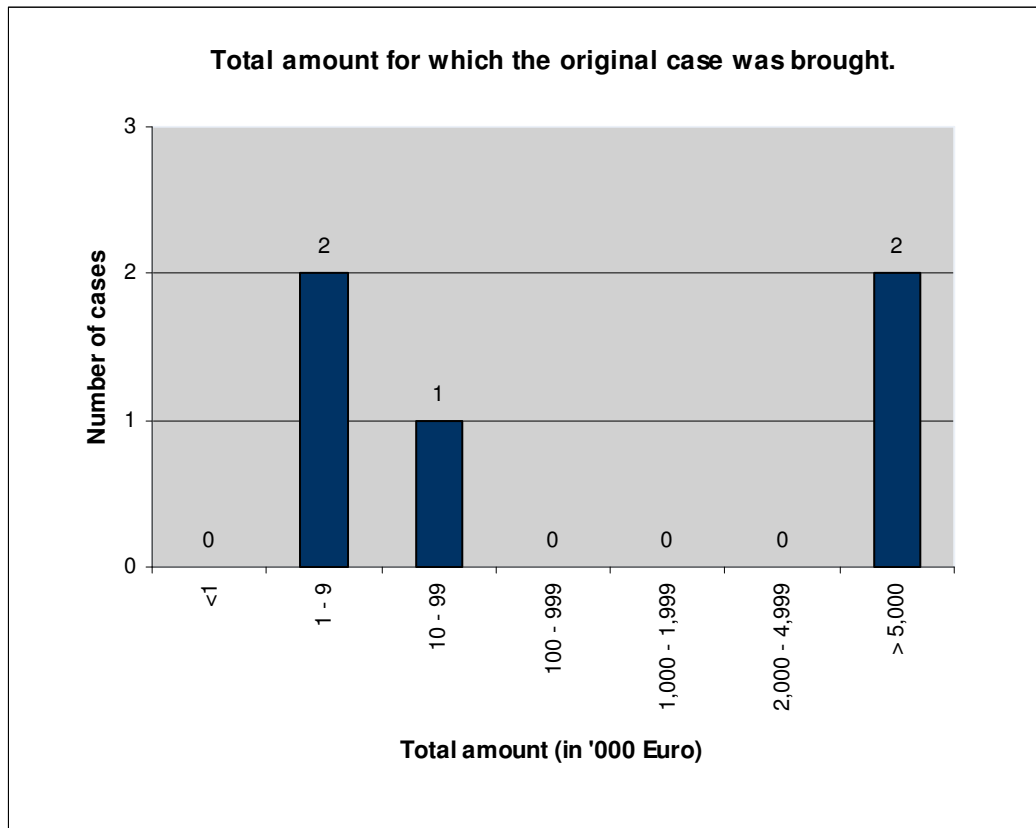
³⁰ The data is from the official site of the the Commission for Consumer Protection.

³¹ <http://kzp.bg/modules.php?name=News&file=categories&op=newindex&catid=5>

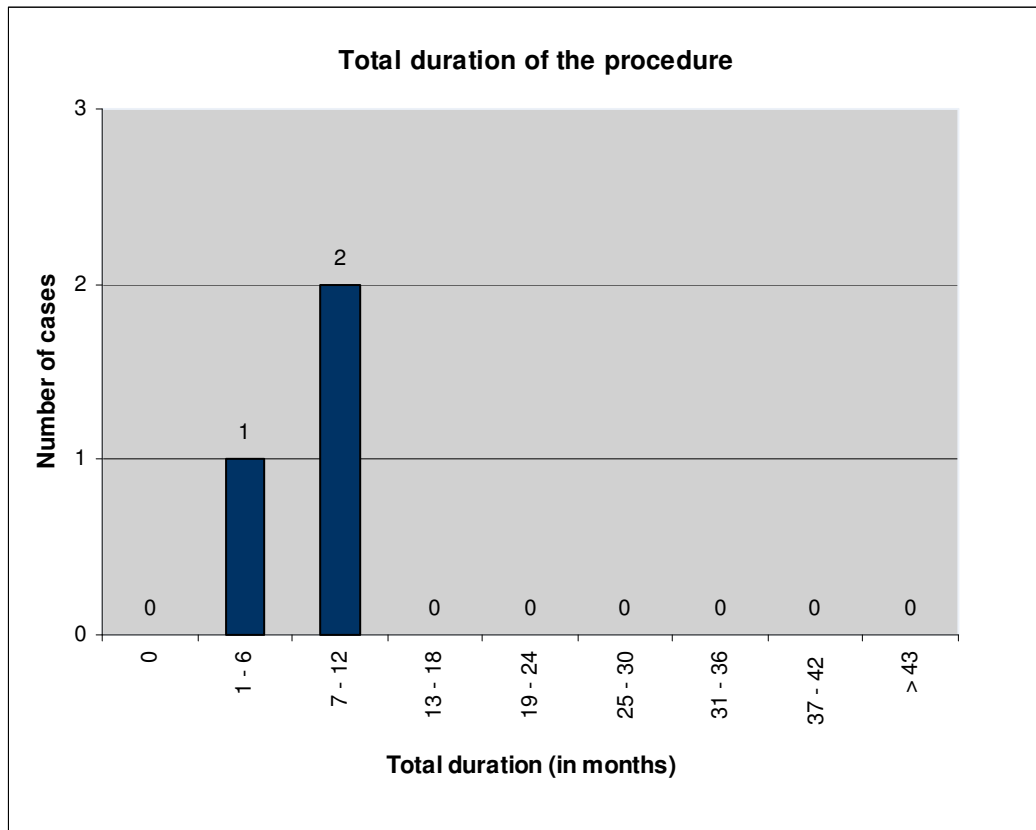
1.8 ANNEX:

Annex 1: Case statistics

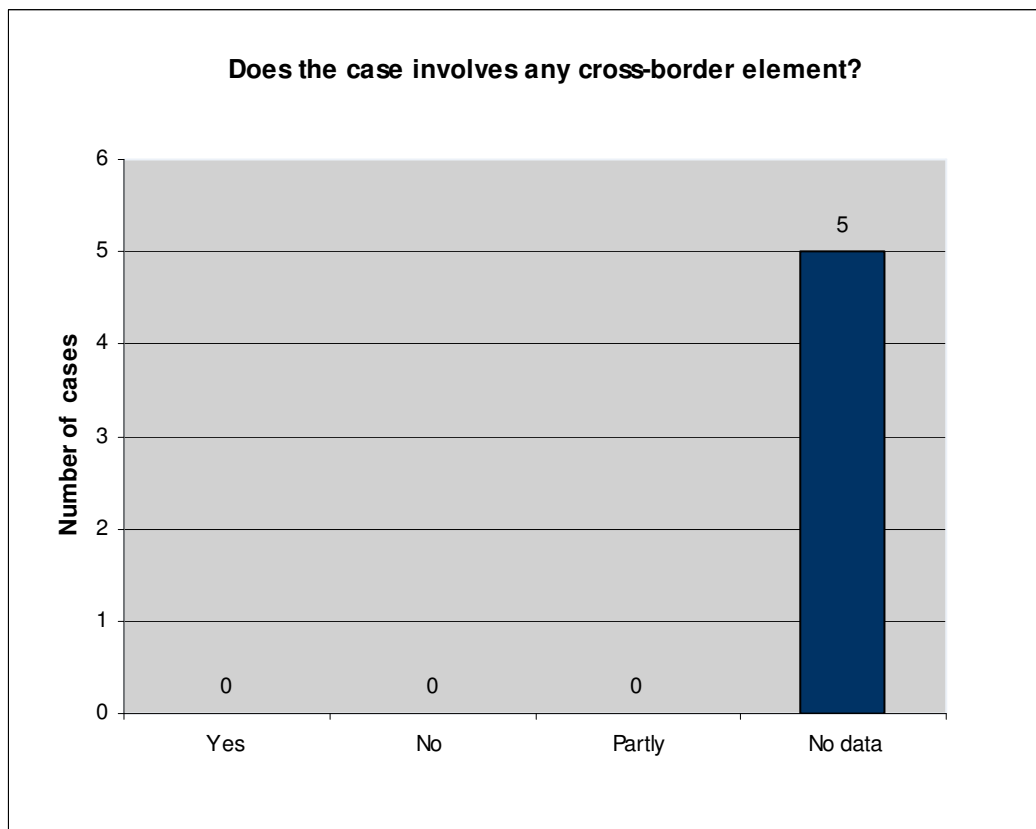




Note: Two cases are ongoing



Note: Two cases are ongoing



Annex 2: Country literature on collective redress

- ❑ Goleminov, Tchudomir (2001): Legal Protection of Consumers, Siela - Soft&Publishing, Bulgaria.
- ❑ Sukareva, Zlatka (2001): Civil law means of consumer protection, Feneja, Bulgaria.
- ❑ Nikolov, B. Varadinov, O. (2004): An European Guide for Bulgarian Consumer, Bulgarian National Consumer Association, Bulgaria.
- ❑ Nikolov, B. Varadinov, O. (2006): A Guide for Bulgarian Consumer, Bulgarian National Consumer Association, Bulgaria.
- ❑ Nikolov, B. Varadinov, O. (2006): Collection commentaries of Bulgarian Consumer Law, Bulgarian National Consumer Association, Bulgaria.

Annex 3: Time-sheet of Collective (Group) Action for Redress of Damages to the Collective Consumers' Interests - art.188 of the Law on Consumer Protection 2006³²

<i>Collecting documents, preliminary inquiry</i>	30 hours
<i>First appointment with an advocate</i>	2 hours
<i>Second appointment with the advocate, signing the statement of claim</i>	2 hours
<i>Participating in all first instance court hearing - 3-4 hearings, 2-3 hours for each</i>	12 hours
<i>Appointments with experts</i>	2 hours
<i>Appointment with the advocate - for preparing either an appeal to a court of appeal or an objection against the defendant's appeal</i>	2 hours
<i>Participating in all second (appeal) instance court hearings - 2-3 hearing, 2-3 hours for each</i>	9 hours
<i>Appointments with experts</i>	2 hours
<i>Appointment with the advocate - for preparing either an appeal to a court of cassation or an objection against the defendant's appeal to a court of cassation</i>	2 hours
<i>Participating in all third (cassation) instance court hearings - 1-2 hearings, 2-3 hours for each (if the plaintiff's permanent place of residence or headquarter is in Sofia or Sofia Region) or 24 hours (if the plaintiff's permanent place of residence or headquarter is not in Sofia or Sofia Region)</i>	48 hours
<i>Telephone calls</i>	6 hours
<i>Others</i>	4 hours

³² Time-sheets have been made on basis of data, provided by consumers associations, as well as on personal experience of the authors.

Annex 4: Time-sheet of Collective Action for Redress of Damages to the Collective Consumers' Interests - art.188 of the Law on Consumer Protection 2006³³

	for the intermediary	for the consumer
<i>Collecting documents, preliminary inquiry, appointments with consumers, suffered damage</i>	½ hour per consumer	10 hours
<i>First appointment with an advocate</i>	2 hours	-
<i>Second appointment with the advocate, signing the statement of claim</i>	2 hours	-
<i>Participating in all first instance court hearing - 3-4 hearings, 2-3 hours for each</i>	12 hours	12 hours
<i>Appointments with experts</i>	2 hours	-
<i>Appointment with the advocate - for preparing either an appeal to a court of appeal or an objection against the defendant's appeal</i>	2 hours	-
<i>Participating in all second (appeal) instance court hearings - 2-3 hearing, 2-3 hours for each</i>	9 hours	9 hours
<i>Appointments with experts</i>	2 hours	-
<i>Appointment with the advocate - for preparing either an appeal to a court of cassation or an objection against the defendant's appeal to a court of cassation</i>	2 hours	-
<i>Participating in all third (cassation) instance court hearings - 1-2 hearings, 2-3 hours for each (if the plaintiff's permanent place of residence or headquarter is in Sofia or Sofia Region) or 24 hours (if the plaintiff's permanent place of residence or headquarter is not in Sofia or Sofia Region)</i>	48 hours	48
<i>Telephone calls</i>	20 hours	4
<i>Others</i>	6 hours	4

³³ Time-sheets have been made on basis of data, provided by consumers associations, as well as on personal experience of the authors.

Annex 5: Time-sheet of Collective Action for Redress of Damages to the Collective Consumers' Interests - art.188 of the Law on Consumer Protection 2006³⁴

<i>Collecting documents, preliminary inquiry</i>	10 hours
<i>First appointment with an advocate</i>	2 hours
<i>Second appointment with the advocate, signing the statement of claim</i>	2 hours
<i>Participating in all first instance court hearing - 3-4 hearings, 2-3 hours for each</i>	12 hours
<i>Appointments with experts</i>	1 hours
<i>Appointment with the advocate - for preparing either an appeal to a court of appeal or an objection against the defendant's appeal</i>	2 hours
<i>Participating in all second (appeal) instance court hearings - 2-3 hearing, 2-3 hours for each</i>	9 hours
<i>Appointments with experts</i>	1 hours
<i>Appointment with the advocate - for preparing either an appeal to a court of cassation or an objection against the defendant's appeal to a court of cassation</i>	2 hours
<i>Participating in all third (cassation) instance court hearings - 1-2 hearings, 2-3 hours for each (if the plaintiff's permanent place of residence or headquarter is in Sofia or Sofia Region) or 24 hours (if the plaintiff's permanent place of residence or headquarter is not in Sofia or Sofia Region)</i>	48 hours
<i>Telephone calls</i>	4 hours
<i>Others</i>	4 hours

³⁴ Time-sheets have been made on basis of data, provided by consumers associations, as well as on personal experience of the authors.

Annex 6: Time-sheet of Collective Action for Redress of Damages to the Collective Consumers' Interests - art.188 of the Law on Consumer Protection 2006³⁵

<i>Collecting documents, preliminary inquiry</i>	10 hours
<i>First appointment with an advocate</i>	2 hours
<i>Second appointment with the advocate, signing the complaint to the Conciliation commissions</i>	2 hours
<i>Participating in all first instance court hearing - 1-2 hearings, 2 hours for each</i>	4 hours
<i>Appointments with experts</i>	1 hour

³⁵ Time-sheets have been made on basis of data, provided by consumers associations, as well as on personal experience of the authors.

Annex 7: Proceedings before the conciliation commissions in Bulgaria:

In 2006³⁶:

<i>Total number</i>	113
<i>Rejection of complaint by reasons of insufficient clarity or incompleteness</i>	2
<i>Settlement in conciliation proceeding</i>	11
<i>Termination of conciliation proceeding because of withdrawal of complaint</i>	5
<i>Termination of conciliation proceeding because business persons withheld their consent for participation in proceeding</i>	51
<i>Settlement out of conciliation proceeding</i>	13
<i>Termination of conciliation proceeding because the parties could not come to an agreement</i>	21
<i>Pending conciliation proceedings</i>	10

In 2007³⁷:

<i>Total number</i>	381
<i>Termination of conciliation proceeding because the parties did not appear before commission</i>	21
<i>Settlement in conciliation proceeding</i>	59
<i>Termination of conciliation proceeding because business persons withheld their consent for participation in proceeding</i>	131
<i>Settlement out of conciliation proceeding</i>	12
<i>Termination of conciliation proceeding because the parties could not come to an agreement</i>	30
<i>Other</i>	128

³⁶ Information was taken from the Annual Report for 2006 of The Commission on Consumer Protection, available on the official site of the Commission - (<http://kzp.bg/modules.php?name=News&file=categories&op=newindex&catid=5> last visited on 11.01.2008).

³⁷ Information from the Chairman of The Commission on Consumer Protection - See <http://www.focus-news.net/index.php?id=n863757> last visited on 15.01.2008.

Annex 8: Organisations interviewed

- Ministry of Economy and Energy, Consumer Protection Directorate
- Ministry of Justice
- Federation of Consumers in Bulgaria (FCB)
- Union of Insured persons in Bulgaria (UIB)
- Bulgarian Industrial Association (BIA)
- 1 Lawyer involved in collective redress

Date of interviews: December 2007