

**Annex to Memo /08/741**

**Green Paper on Consumer Collective Redress – Questions and Answers –**

**The national different systems in place (country fiches)**

Disclaimer: Please note that the **information** set out in the country fiches attached is based on the study on alternative means of consumer redress other than redress through ordinary judicial proceedings carried out by the Catholic University of Leuven and the study on the evaluation of the effectiveness and efficiency of collective redress mechanisms in the European Union (Civic Consulting - Oxford Economics) as well as the respective country reports available on the Commission website at [http://ec.europa.eu/consumers/strategy/scene\\_en.htm](http://ec.europa.eu/consumers/strategy/scene_en.htm). These fiches may not in any circumstances be regarded as stating an official position of the Commission.

## **BELGIUM**

### **1.1. Situation on redress mechanisms**

Several arbitration schemes exist for consumer disputes in specific sectors, such as travel, furniture, textile cleaning. Professional organisation and consumer organisation cooperated to set up these schemes. In 2005, the code of civil procedure has been amended to cover mediation. Mediation schemes are available for example in the insurance or travel sector. A number of ombudsmen can deal with complaints related to insurance, post, railways, telecommunication and public transport.

Small claims (up to €1860) are dealt with before the Judge of Peace under a simplified procedure.

Consumer organisations, the Minister of Economic Affairs, professional and inter-professional organisations can seek injunctions to stop unfair commercial practices.

### **1.2. Situation on collective redress**

No collective redress mechanism for damages exists in Belgium. However, the possibility of a collective redress mechanism is currently studied.

### **1.3 Eurobarometer 2008 figures**

- 58 % of Belgian consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 86 % of Belgian consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 41 % of Belgian consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 51 % of Belgian consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 38 % of Belgian consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## **BULGARIA**

### **1.1. Situation on redress mechanisms**

There are no ADR mechanisms notified to the Commission for Bulgaria.

The Commission for Consumer Protection and consumer associations may seek injunctions to stop practices that harm the collective interest of consumers.

### **1.2. Situation on collective redress**

In Bulgaria, collective redress is available with regard to damages to the collective consumers' interests as well as to individual damages suffered by consumers. The former mechanism applies to a damage resulting from any infringement of consumer protection law, even though the consumers affected are not identified, but identifiable. Consumer organisations may bring a lawsuit and will be granted damages – the amount being fixed by the court – which they have to spend for consumer protection activities. Thus, this mechanism is not designed to compensate consumers for individual losses, but to protect their collective interest as damaged consumers through consumer organisations.

The second mechanism has been introduced in 2006. The following conditions have to be fulfilled:

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

### **1.3 Eurobarometer 2008 figures**

- 78 % of Bulgarian consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 48 % of Bulgarian consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 12 % of Bulgarian consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 12 % of Bulgarian consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 46 % of Bulgarian consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## **CZECH REPUBLIC**

### **1.1. Situation on redress mechanisms**

Out-of-court dispute resolution is still at an early stage. For financial services, the Financial Arbiter provides arbitration for disputes between providers of payment services and their clients or the issuers and users of electronic payment instruments. The Ministry of Trade and Industry launched in April 2008 a two year pilot project to promote efficient mediation and arbitration for consumers in the Czech Republic. Contact points to ensure consumers' access to mediators and arbitrators have been created. The system is supervised by an advisory body at the Ministry of Trade and Industry called Platform for the Alternative Dispute Resolution where consumers and businesses organisations, public authorities, the Czech arbitration court and association of mediators are represented.

Small claims not exceeding € 70 are adjudicated entirely in the court of first instance.

According to Directive 98/27/EC, Czech law admits certain organisations to seek injunctions. Further, provisions of the Commercial Code allow for injunctions on grounds of unfair competition.

### **1.2. Situation on collective redress**

There is no mechanism for collective redress.

### **1.3 Eurobarometer 2008 figures**

- 54 % of Czech consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 77 % of Czech consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 19 % of Czech consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 25 % of Czech consumers believe that resolving disputes with traders through ADR is easy – the EU is 39 %.
- 50 % of Czech consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## DENMARK

### **1.1. Situation on redress mechanisms**

In 1975 Denmark established The Consumer Complaint Board, a public alternative dispute resolution (ADR) mechanisms, to provide consumers with a quick and inexpensive mean of redress. The board can deal with claims between DKK 800 (~ €107) and DKK 100.000 (~ €13.440) (minimum value for shoes is DKK 500 [~ €67], for motor vehicles DKK 10.000 [~ €1.343]). There are also some sector-specific ADR mechanisms such as the Energy Supplies Complaint Board, the Insurance Complaint Board.

A small claims procedure has been introduced as part of a reform of the court system in 2007 (covering claims below 50.000 DKK [~ €6.660]).

Any person or organisation with a sufficient legal interest, mainly the Consumer Ombudsman, may seek injunctions to stop practices breaching the provisions of the Marketing Practices Act.

### **1.2. Situation on collective redress**

Since 22 February 2007 a group action exists.

A collective action can be filed under several conditions: there must be claims common to several people; a collective action must be the best way to handle the claims; the members in the group, i.e. the persons to whom the claims belong, can be identified and notified about the case in a reasonable way (individually or by mass media, to be determined by the court depending on the circumstances of the case); a group representative can be appointed.

A collective action will only concern the members of the group (opt-in model). However, for very small individual claims there is a possibility to apply an opt-out model.

In a collective action following the opt-in model members of the group, consumer associations, private institutions and other associations, and the Danish Consumer Ombudsman and other public authorities authorised by law can be appointed as group representatives.

In a collective action following the opt-out model the court can appoint as group representative only the Danish Consumer Ombudsman and other public authorities authorised by law.

### **1.3 Eurobarometer 2008 figures**

- 38 % of Danish consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 87 % of Danish consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 46 % of Danish consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 47 % of Danish consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.

- 21 % of Danish consumers do not trust public authorities to protect their rights – the EU average is 37 %.

# GERMANY

## **1.1. Situation on redress mechanisms**

There are more than 200 arbitration schemes which are usually closely connected to professional organisations. In some federal states a mandatory out-of-court procedure for settlement is necessary if the claim does not exceed €750 before starting court proceedings. Ombudsmen exist for private health insurance, insurances, banking, building and loans, and online trade.

At the discretion of the courts of first instance (Amtsgerichte) a simplified procedure may be applied if the claim does not exceed €600.

In case of unfair commercial practices or unfair standard contract terms, consumer organisations or professional organisations may obtain an injunction in order to achieve immediate cessation of those practices.

## **1.2. Situation on collective redress**

Three different types of collective redress mechanisms are in place:

A test case procedure combined with a group action in the area of financial investments. This opt-in procedure proceeds in two steps. The common factual and legal questions are decided in a collective procedure. In a second step, this decision has to be applied to the individual cases. This test case procedure was introduced in 2005 for a period of five years and its merits will be evaluated before its automatic expiry in 2010.

A representative action where consumers can assign their claims to a consumer organisation which would bring the cases to court. This mechanism might either be used as a test case procedure (by selection of one or a small number of persons affected) or a collective procedure in which claims are collected and the compensation granted by the court will be distributed among the consumers afterwards. However, in no case can the judgment be binding on persons who are not parties of the lawsuit.

A skimming-off procedure in the area of unfair competition law brought to court inter alia by consumer organisations. As a result, any ill-gotten gains arising from a violation of the rules on unfair competition will have to be paid over to the treasury.

## **1.3 Eurobarometer 2008 figures**

- 42 % of German consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 81 % of German consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 36 % of German consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 43 % of German consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 39 % of German consumers do not trust public authorities to protect their rights – the EU average is 37 %.

# ESTONIA

## **1.1. Situation on redress mechanisms**

There are two out-of-court mechanisms specifically designed for consumer protection and one general scheme. The Consumer Protection Board settles consumer complaints. The Consumer Complaints Committees is designed to settle consumer disputes with regard to computers, shoes, furniture, clothes and other products and services of daily life. For the area of insurances, since 2004 there is a general scheme, the Insurance Court of Arbitration.

Since the Code of Civil Procedure has been amended in 2006, a simplified procedure is available for claims below 20000 EEK (~€1278).

The Consumer Protection Board may also issue an injunction to ask a trader to stop violating certain consumer law provisions (such as distance marketing, consumer credit etc.).

## **1.2. Situation on collective redress**

There is no collective redress mechanism.

## **1.3 Eurobarometer 2008 figures**

- 47 % of Estonian consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 68 % of Estonian consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 20 % of Estonian consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 33 % of Estonian consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 34 % of Estonian consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## **IRELAND**

### **1.1. Situation on redress mechanisms**

Several out-of-court instruments exist: the Financial Services Ombudsman scheme covers a broad scope of areas (e.g. banks, building companies, insurances and stockbrokers). The Advertising Standards Authority monitors the compliance with the Code of Advertising Standards and the Code of Sales Promotion Practice. There are also a statutory body concerned with disputes in the area of telecommunication and a number of complaints systems operated by business organisations.

Small consumer claims (up to € 2000) can be handled via a special procedure before the District Court.

Under the Consumer Protection Act 2007, the National Consumer Agency may obtain, on behalf of a consumer, an order requiring a trader convicted of an offence to compensate a consumer who has been harmed by the offense. ("compensation order").

According to Directive 98/27/EC injunctions may be obtained by anyone in order to stop or prohibit unlawful practices violating consumer interests.

### **1.2. Situation on collective redress**

No collective redress mechanism for damages exists in Ireland.

### **1.3 Eurobarometer 2008 figures**

- 59 % of Irish consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 65 % of Irish consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 31 % of Irish consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 36 % of Irish consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 23 % of Irish consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## **GREECE**

### **1.1. Situation on redress mechanisms**

Three out-of-court schemes (one mediation scheme and two ombudsmen) specifically designed for consumer-to-business disputes exist. The Ombudsman of Banking – Investment Services has been operating since July 2005. The Consumer Ombudsman deals with disputes between a consumer and a supplier and tries to mediate between the parties. Another mediation procedure for consumer complaints can be lodged with a Commission which is organised in every prefecture; it can best work for small claims.

A simplified procedure exists for small claims under €1500 with the Justice of Peace.

Consumer organisations can bring actions for injunction in order to protect the general interest of consumers.

### **1.2. Situation on collective redress**

In July 2007, the consumer law was amended to allow consumers to obtain individual compensation as a result of an action for injunctions. When filing an action for injunction, consumer organisations may now also request the court to issue a declaratory judgment recognising the right of consumers to be compensated for the damage caused to them as a result of the trader's behaviour. Once this declaratory judgement has become final, individual consumers who have suffered prejudice may seek relief directly from the trader. If the trader refuses to provide compensation within a period of thirty days, the consumer may proceed to obtain an order of payment from the court.

### **1.3 Eurobarometer 2008 figures**

- 73 % of Greek consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 83 % of Greek consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 47 % of Greek consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 43 % of Greek consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 50 % of Greek consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## SPAIN

### **1.1. Situation on redress mechanisms**

Three out-of-court schemes specifically designed for consumer to business disputes exist: the National Consumer Institute's arbitration system; the Consumer Arbitration Board acting as mediator for consumers' claims and the Spanish Central Bank Claim System in the area of financial services.

The "juicio verbal" deals with claims below €3000. The proceedings are, except for the introductory writ, exclusively oral and end with the parties' conclusions. For claims below €900 no legal representation is necessary.

The National Consumer Institute and its equivalents in the regions, the consumer associations, the public prosecutor and entities constituted to defend consumers' interest in EU countries can start an action for an injunction, i.e. to obtain the cessation of acts contrary to consumer protection rules.

### **1.2. Situation on collective redress**

The collective action in defence of consumers' rights and interests has defined two separate types of interests: multi-party (when it is possible to determine the composition of a group of people who have the same legal position) and collective or diffuse (when it is difficult to determine the composition of a group of people that have the same legal position). Depending on the concrete interest, the parties entitled to file a suit in defence of consumers' rights and interests are different:

- When victims are a group of consumers with identified or easily identifiable members, the consumers associations, the legally constituted entities created to protect consumers, and the groups of victims are entitled to introduce this collective action.
- When victims are not identified or easily identifiable, the diffuse interests' lawsuit, in the name of consumers, may be brought exclusively by consumer associations.

### **1.3 Eurobarometer 2008 figures**

- 44 % of Spanish consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 73 % of Spanish consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 23 % of Spanish consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 29 % of Spanish consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 25 % of Spanish consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## FRANCE

### **1.1. Situation on redress mechanisms**

France has approximately 15 ADR bodies, mainly private or public mediation/conciliation schemes.

Simplified court procedures exist for cases below € 10000 (before the "Tribunal d'instance") and below € 4000 (before the "Juge de proximité").

Consumer organisations and consumer public authorities can seek injunctions in the collective interests of consumers to stop violations of consumer protection laws.

### **1.2. Situation on collective redress**

Currently, a collective redress mechanism exists in France in the form of a representative action. Under this regime, at least two consumers who are victims of the same practice may give a mandate to an authorised consumer organisation to represent them in court. The normal civil or criminal procedures apply to this action. In practice, this action is not used as there are only few authorised organisations and there is a prohibition to communicate and call for victims.

Consumer organisations can also request damages in case of illegal practices that harmed the collective interests of consumers. Individual consumers do not receive compensation.

The French government announced that a collective redress mechanism will be presented in the autumn.

### **1.3 Eurobarometer 2008 figures**

- 66 % of French consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 85 % of French consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 30 % of French consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 46 % of French consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 45 % of French consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## ITALY

### **1.1. Situation on redress mechanisms**

Alternative Dispute Resolution procedures in conformity with the Commission Recommendation 98/257 are established by Art. 141 of the Consumer Code (Decree Legislative N. 206 of 2005). Moreover, proceedings for settling disputes between traders and consumers are administered by arbitration bodies existing in the Chambers of Commerce and the National and International Arbitration Chamber (Law N. 580 of 1993).

A simplified court procedure exists before the Justice of Peace for disputes concerning movable goods (including monetary credits) up to a value of €2582 and for material damages caused by car accidents up to a value of €15493.

Consumer associations can initiate a claim for an injunction with an ordinary court of first instance in view of any violation of any collective interests of consumers.

### **1.2. Situation on collective redress**

Collective redress was introduced by law in 2008. The relevant provisions will enter into force on 1 January 2009. Collective actions can be initiated by consumer associations registered at the Ministry of Economic Development and/or by other associations and committees duly representing the collective interests at stake. Consumers may join the action until the appeal stage. The claimants can request compensation for damages as well as an order to the defendant to return any due amounts to the individual consumers.

### **1.3 Eurobarometer 2008 figures**

- 46 % of Italian consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 69 % of Italian consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 31 % of Italian consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 27 % of Italian consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 48 % of Italian consumers do not trust public authorities to protect their rights – the EU average is 37 %.

# CYPRUS

## **1.1. Situation on redress mechanisms**

Until now, no out-of-court mechanism exists for consumer disputes. An arbitration scheme for consumer disputes should soon enter into force. Consumers will be able to file complaints with the Competition and Protection of Consumers Service of the Ministry of Trade, Industry and Tourism. The scheme will be available for claims of a value up to CYP 3,000 (~ €5826). A Financial Ombudsman scheme is under preparation.

There are neither special procedures for consumer disputes nor for small claims.

According to Directive 98/27/EC, the Competition and Protection of Consumers Service of the Ministry of Trade, Industry and Tourism or any other lawfully incorporated body or organisation which can demonstrate sufficient legitimate interest to protect the collective interests of consumers in general may seek an injunction.

## **1.2. Situation on collective redress**

There are no means of collective redress.

## **1.3 Eurobarometer 2008 figures**

- 78 % of Cypriot consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 82 % of Cypriot consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 22 % of Cypriot consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 50 % of Cypriot consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 21 % of Cypriot consumers do not trust public authorities to protect their rights – the EU average is 37 %.

# LATVIA

## **1.1. Situation on redress mechanisms**

Under the Consumer Rights Protection Act, the Consumer Rights Protection Centre mediates between the parties and can take a binding decision if the parties do not reach agreement. Two general Ombudsman schemes in the financial sector can be used by consumers in the area of disputes concerning clearing or payments by electronic means and disputes concerning life insurance, accident insurance and help insurance.

No specific in-court mechanisms exist with regard to consumer disputes or small claims.

The Consumer Rights Protection Centre is competent to take a decision if parties cannot agree as well as any necessary actions (injunctions) in order to stop breaches of consumer protection statutes.

## **1.2. Situation on collective redress**

There are no collective redress mechanisms.

## **1.3 Eurobarometer 2008 figures**

- 70 % of Latvian consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 64 % of Latvian consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 26 % of Latvian consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 32 % of Latvian consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 29 % of Latvian consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## LITHUANIA

### **1.1. Situation on redress mechanisms**

It is not possible to solve consumer-to-business disputes via arbitration mechanisms. However, the National Consumer Protection Board can provide out-of-court means, notably for complaints with credit providers.

Simplified court procedures exist under the Civil Procedure Code since January 2003: an application for court order, a proceeding in which evidence is produced in written form only and simplified proceedings for small claims (lower than LTL 1,000 [~ €287]).

The National Consumer Protection Board and consumer organisations can lodge a claim for an injunction in relation to unfair terms or for other injunctions according to Directive 98/27/EC.

### **1.2. Situation on collective redress**

Currently, no collective redress mechanism exists. Although Article 49 of the Lithuanian Civil Procedure Code provides for a collective redress mechanism, the grounds for bringing a collective action are not specified in the Code and this is not applicable in practice.

### **1.3 Eurobarometer 2008 figures**

- 66 % of Lithuanian consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 56 % of Lithuanian consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 17 % of Lithuanian consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 23 % of Lithuanian consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 47 % of Lithuanian consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## **LUXEMBURG**

### **1.1. Situation on redress mechanisms**

Luxemburg has several out-of-court dispute settlement mechanisms available for consumers, mainly sector specific (i.e. insurances, car repairs, financial services and travel).

As to small claims of a value up to €10.000, the Justice of Peace has jurisdiction.

Consumer organisations and individuals can seek injunctions to the President of the Commercial chamber of the Tribunal d'arrondissement to prohibit unfair contract terms in consumer agreements or to stop violations of some consumer protections laws.

### **1.2. Situation on collective redress**

There is no collective redress mechanism.

### **1.3 Eurobarometer 2008 figures**

- 40 % of consumers from Luxembourg who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 76 % of consumers from Luxembourg would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 19 % of consumers from Luxembourg think it is easy to solve disputes through courts – the EU average is 30 %.
- 48 % of consumers from Luxembourg believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 30 % of consumers from Luxembourg do not trust public authorities to protect their rights – the EU average is 37 %.

## HUNGARY

### **1.1. Situation on redress mechanisms**

One out-of-court procedure specifically designed for consumer disputes exists: a Consumer Arbitration Board is operated jointly by the chambers of commerce and consumer organisations and provides free-of-charge arbitration services.

For claims on payment of money or delivery of movable property up to HUF 200000 (~€800), there is a simplified procedure.

Injunctions can be obtained under the Consumer Protection Act for infringement of specific consumer-protective legislation, under the Hungarian Civil Code for the use of unfair standard terms and the Hungarian Competition Act if consumers have suffered a substantial detriment due to an infringement of the same Act.

### **1.2. Situation on collective redress**

A collective redress mechanism for damages does not exist.

### **1.3 Eurobarometer 2008 figures**

- 43 % of Hungarian consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 50 % of Hungarian consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 18 % of Hungarian consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 34 % of Hungarian consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 30 % of Hungarian consumers do not trust public authorities to protect their rights – the EU average is 37 %.

# MALTA

## **1.1. Situation on redress mechanisms**

Consumers dispose of several out-of-court schemes. Consumers can file a complaint with the Department of Consumer Affairs, where an official will try to find a settlement between the parties. Other schemes are the Consumer Complaints Manager, a non-judicial authority within the Financial Services Authority, the Malta Arbitration Centre, which deals with disputes arising out of contracts, and the Mediation Centre.

The Consumer Claims Tribunal is a specialised forum dealing exclusively with disputes between consumers and a trader over small claims (up to ~ €3.600) and related to a sale or a service. The procedure is simplified and more informal compared to a regular court proceeding. A Small Claims Tribunal deals with money claims not exceeding ~ €3.600.

Compliance orders (injunctions) intended to stop violation of fair trading practices can be obtained via the Department of Consumer Affairs.

## **1.2. Situation on collective redress**

There is no collective redress mechanism.

## **1.3 Eurobarometer 2008 figures**

- 44 % of Maltese consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 48 % of Maltese consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 17 % of Maltese consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 31 % of Maltese consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 22 % of Maltese consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## NETHERLANDS

### **1.1. Situation on redress mechanisms**

There are more than 30 sectoral Alternative Dispute Resolution (ADR) bodies specialised for consumer disputes, mainly operating under "Stichting Geschillencommissies Consumentenzaken" (Foundation for complaints tribunals for consumer complaints). Ombudsmen financed by business are common in the financial services sector.

A simplified court procedure exists at the District Court ("kantonrechter") for claims below €5.000.

Consumer organisations are entitled to seek an injunction in order to stop or prohibit unfair commercial practices or to prohibit an unfair standard contract terms. They may also obtain a declaratory judgment.

### **1.2. Situation on collective redress**

The Act on the Collective Settlement of Mass Damage Claims came into force at the end of 2005. Under this procedure, an agreement on the compensation of mass damages may be reached between the association representing the victims and the company which caused the harm. The contracting parties then request the court to make the agreement binding for all victims. The law provides for an opt-out option. This means that individual aggrieved parties must withdraw from the agreement if they do not want to be part of it. Those who choose to opt out retain the possibility of introducing individual claims for damages.

### **1.3 Eurobarometer 2008 figures**

- 53 % of Dutch consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 91 % of Dutch consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 40 % of Dutch consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 57 % of Dutch consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 28 % of Dutch consumers do not trust public authorities to protect their rights – the EU average is 37 %.

# AUSTRIA

## **1.1. Situation on redress mechanisms**

Out-of court conciliation schemes specifically designed to settle consumer-to-business disputes exists in Austria but a majority are restricted to single federal states and specific sectors. No arbitration and mediation schemes exist which are specifically designed for consumer redress.

Small claims (up to €10.000) will be taken before the District Court (Bezirksgericht).

Several national public bodies and consumer organisations can seek injunctions to stop the use of unfair contract terms, unfair commercial practices and violations of the law against unfair competition.

## **1.2. Situation on collective redress**

There are two collective redress mechanisms currently available:

- A model or test action, which can be brought if a consumer cedes his claim to a consumer organisation which will act as plaintiff; the case will then serve as a model, but will not be binding to third parties.
- The so-called “class action, Austrian style” (“*Sammelklage nach österreichischem Recht*”): consumer organisations can take actions against a trader on behalf of several harmed consumers. It has the advantage of being cheaper due to degressive court and lawyers’ fees.

## **1.3 Eurobarometer 2008 figures**

- 39 % of Austrian consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 71 % of Austrian consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 28 % of Austrian consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 38 % of Austrian consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 26 % of Austrian consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## **POLAND**

### **1.1. Situation on redress mechanisms**

The most widely spread arbitration scheme is the cost-free Permanent Consumer Arbitration Court system comprising 31 regional arbitration courts, covering sales of goods and provision of services. Specific schemes exist for insurance and pensions, telecommunication and postal services and banking. Separate mediation procedures are run by the Regional Controllers of Trade Inspection, the Ombudsman for the Insured and the president of the Office for the Regulation of Telecommunications and Postal Services. Ombudsmen at local level play a major role in resolving consumer disputes.

For claims up to 10000 PLN (~€2800) there is a mandatory, simplified procedure directed specifically at consumer cases.

Consumers and consumer organisations may seek injunctions to stop the use of unfair contract terms. The Office of competition and consumer protections can order traders to stop practices that harm consumers' collective interest.

### **1.2. Situation on collective redress**

There is no collective redress mechanism.

### **1.3 Eurobarometer 2008 figures**

- 55 % of Polish consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 75 % of Polish consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 22 % of Polish consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 35 % of Polish consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 45 % of Polish consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## PORTUGAL

### **1.1. Situation on redress mechanisms**

The 6 Centres for Arbitration of Consumer Disputes provide an out-of-court mechanism specifically for consumer disputes. Other out of court mechanisms also exists for example in the area of securities markets and energy.

The “Julgados de Paz” deal with small claims below € 3740 through a two-stage procedure.

The “Instituto do Consumidor” has the right to take an action of an injunctive nature pursuant to the law concerning the protection of consumers' rights.

### **1.2. Situation on collective redress**

A collective action in defence of the rights and interests of consumers is available. The scope of the law covers public health, environment, quality of life, consumer protection (goods and services), cultural heritage and public domain.

Cases may be initiated by:

- consumers who are directly injured;
- consumers and consumer associations who are not directly injured, but who are concerned with the issue;
- the *Ministerio Publico* and the Institute for Consumer Protection in matters concerning individual cases of a similar nature, collective interests and intangible interests.

### **1.3 Eurobarometer 2008 figures**

- 48 % of Portuguese consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 54 % of Portuguese consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 14 % of Portuguese consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 19 % of Portuguese consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 46 % of Portuguese consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## ROMANIA

### **1.1. Situation on redress mechanisms**

There are no ADR mechanisms notified to the Commission for Romania.

Romania has transposed the Directive 98/27/EC taking effect 1 January 2007, thus injunctions can also be obtained by consumer organisations.

### **1.2. Situation on collective redress**

There are no mechanisms of collective redress in place.

### **1.3 Eurobarometer 2008 figures**

- 84 % of Romanian consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 46 % of Romanian consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 22 % of Romanian consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 29 % of Romanian consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 43 % of Romanian consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## **SLOVENIA**

### **1.1. Situation on redress mechanisms**

There is no out-of-court scheme specifically designed for consumer-to-business disputes, except for insurance where an arbitration and a mediation scheme exists. A general mediation mechanism via the Ljubljana District Court can be applied to consumer disputes.

A small claims procedure exists for disputes of a value below €830; in commercial disputes this amount is €2080. It is quick, but limited to very small claims.

Consumer organisations can bring an injunctive action against a company asking the court to cease the violation or declare contracts or parts of it null and void.

### **1.2. Situation on collective redress**

No collective redress mechanism exists.

### **1.3 Eurobarometer 2008 figures**

- 72 % of Slovenian consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 67 % of Slovenian consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 20 % of Slovenian consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 40 % of Slovenian consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 55 % of Slovenian consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## **SLOVAKIA**

### **1.1. Situation on redress mechanisms**

Consumers dispose of three out-of-court mechanisms. Since 2004, on agreement of the parties, the dispute can be resolved through the general mediation scheme. A specific mediation procedure for the area of electronic communication is run by the Telecommunication Office. A general arbitration scheme covers also consumer disputes. It is mainly used via the Permanent Arbitration Court of the Bank Association in the banking field.

There are two in-court mediation schemes and a simplified court procedure.

Injunctions to prevent infringements of the Consumer Protection Code can be obtained by individuals or consumer organisations.

### **1.2. Situation on collective redress**

There are no collective redress mechanisms available.

### **1.3 Eurobarometer 2008 figures**

- 57 % of Slovak consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 61 % of Slovak consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 14 % of Slovak consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 17 % of Slovak consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 46 % of Slovak consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## **FINLAND**

### **1.1. Situation on redress mechanisms**

Three out-of-court mechanisms exist to resolve consumer disputes. There are the Municipal Consumer Advisers who have the competence to mediate between disputing parties. In case the mediation fails, consumers can address the Consumer Complaints Board. Apart from these public institutions, there are self-regulatory private bodies such as the Insurance Bureau and the Insurance Complaints Board, which mediate between insurers and policyholders.

There are no specific procedures for consumer disputes neither for small claims.

In case of unfair commercial practices, the Consumer Ombudsman is entitled to issue an injunction imposing conditional fines. However, if the trader resists, the Consumer Ombudsman will have to seek an injunction to the Market Court for breach of consumer law and/or competition law.

### **1.2. Situation on collective redress**

The Group Action Act entered into force in October 2007. There are two mechanisms:

- the Finnish Consumer Ombudsman may take legal action in court after consumers have opted in.
- the Consumer Ombudsman may also submit a collective action to the Finnish Consumer Complaints Board.

### **1.3 Eurobarometer 2008 figures**

- 52 % of Finnish consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 78 % of Finnish consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 24 % of Finnish consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 47 % of Finnish consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 18 % of Finnish consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## SWEDEN

### **1.1. Situation on redress mechanisms**

The main scheme for out-of-court settlement of consumer disputes is managed by a public body, the National Board for Consumer Complaints.

A simplified judicial procedure for claims of low value (small claims) exists, which is not specifically designed for consumer disputes. The Consumer Ombudsman can represent individual consumers exceptionally before courts in individual cases.

The Consumer Ombudsman is entrusted with the enforcement of the market law statutes ensuring the protection of collective consumer interests (injunction proceedings).

### **1.2. Situation on collective redress**

Under the *Group Proceedings Act of 2002*, group proceedings can be brought on behalf of a group of consumers by private parties; consumer associations; and public authorities.

The following conditions must be satisfied:

- The action must be based on factual circumstances that are common to the group;
- The majority of the claims cannot be better conducted in separate proceedings of the group members;
- The group must be well-defined;
- The plaintiff must be well-suited to represent the group.

The group is defined through an opt-in procedure. The dispute can only be settled if the settlement is endorsed by the court through a judgement.

### **1.3 Eurobarometer 2008 figures**

- 68 % of Swedish consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 88 % of Swedish consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 31 % of Swedish consumers think it is easy to solve disputes through courts – the EU average is 30 %.
- 45 % of Swedish consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 21 % of Swedish consumers do not trust public authorities to protect their rights – the EU average is 37 %.

## UNITED KINGDOM

### **1.1. Situation on redress mechanisms**

The most important out-of-court consumer dispute resolution mechanisms are the consumer ombudsmen. These developed in many services sectors, particularly in the financial services area, while they do not exist in the goods sector.

The county court procedure is simplified for claims of less than £5000 (~€7500) (£1000 [~€1500] for personal injury claims and disrepair claims).

Trading standards officers, the Office of Fair Trading and potentially consumer organisations can go to court for an enforcement order (injunction) for breach of Community or domestic legislation that caused harm to the collective interests of consumers.

On 1 October 2008 came into force the new Regulatory Enforcement and Sanctions Act which provides a framework of administrative sanctions for UK regulators in order to tackle non-compliance. The new legislation allows for transparent and flexible sanctions normally dealt with in the criminal courts such as fixed and variable monetary penalties, stop notices and enforcement undertakings.

### **1.2. Situation on collective redress**

#### **Group litigation orders (GLO)**

In England and Wales, cases can be brought by groups of individuals using GLO. Each individual who has suffered harm essentially brings a case in his own name and similar cases are grouped. Individuals may choose to join part of the group action or court officers themselves may seek to link the cases together for case management purposes.

#### **Consultation on representative actions for breach of consumer protection legislation**

The Department for Business Enterprise and Regulatory Reform (BERR) held a consultation about whether representative actions (actions by consumer organisations on behalf of consumers) should be introduced for breaches of consumer protection legislation. The consultation is closed and responses to it were published in March 2008 on the website of BERR. BERR commissioned a research to look at evidence and need as well as the possibility of compensating consumers for the immediate loss.

### **1.3 Eurobarometer 2008 figures**

- 49 % of British consumers who complained to a trader and were not satisfied with the way their complaint was dealt with, did not take further action – the EU average is 51 %.
- 88 % of British consumers would be more willing to defend their rights in court if they could bind together with other consumers – the EU average is 76 %.
- 40 % of British consumers think it is easy to solve disputes through courts – the EU average is 30 %.

- 52 % of British consumers believe that resolving disputes with traders through ADR is easy – the EU average is 39 %.
- 25 % of British consumers do not trust public authorities to protect their rights – the EU average is 37 %.