

I. ADMINISTRATIVE ENFORCEMENT

Which administrative mechanisms are available to enforce the Directives?

In Greece, most of the EU Directives have been transposed into the national legal order by the main law on Consumer Protection: Law 2251/1994 (Greek Government Gazette A 191/16.11.1994). The Law, in large part, implements:

- Directive 93/13 on general terms of contracts
- Directive 2005/29 on unfair commercial practices
- Directive 2006/114/EC (pursuant to Article 11 of Law no. 3587/2007) on comparative advertising
- Directive 2009/22/EC on consumer associations and
- Directive 2011/83/EU on consumer rights.

Due to the constantly evolving conditions, Law 2251/1994 has been amended several times. With regard to the above Directives, amendments have taken place with Law 3587/2007 (Greek Government Gazette 152/A/10-7-2007), with Ministerial Decision no. Z1-111/2012 (Greek Government Gazette 627/B/7-3-2012) and with Ministerial Decision no. Z1-891/2013.

Except through law, Directives may also be transposed through Ministerial Decisions. Directive 2008/122/EC was incorporated through Joint Ministerial Decision Number Z1-130/21.2.2011 (Greek Government Gazette B-295/22-2-2011) and Directive 98/6/EC with Ministerial Decision no. Z1-404/14-6-2001 (Greek Government Gazette 827 B') (no longer in force).

Lastly, Directives may be transposed through Presidential Decrees: Directive 2015/2302 was incorporated with Presidential Decree 7/2018 (Greek Government Gazette 12/A/29-1-2018).

Two major transpositions took place in 2022: L. 4933/2022 (Greek Government Gazette 99/A` 20.5.2022) transposed the Omnibus Directive, amending Directives 93/13/EEC, 98/6/EC, 2005/29/EC and 2011/83/EU and Law 4967/2022 (Greek Government Gazette A 171/09.09.2022) transposed Directives 2019/770 & 2019/771. As for these twin Directives, most of their provisions were directly incorporated to the respective Chapter of the Greek Civil Code (Articles 513 et seq.). However, the Law also amended several provisions of Law 2251/1994.

Directive (EU) 2020/1828 was transposed through Law 5019/2023 (Greek Government Gazette A 27 - 14.02.2023).

The enforcement of the legal framework under discussion is generally monitored by the Directorate - General of Market and Consumer Protection, of General Secretariat for Trade. The department falls under the competence of the Ministry of Development. The official website of the General Secretariat for Trade is <http://www.mindev.gov.gr>.

The Directorate is also competent for receiving complaints from consumers, focused to on five thematic areas: consumer goods, services, bank services, insurance and financial services, information agencies for debtors, debt settlement and personal data protection.

The page where the consumers may complain is: <https://kataggelies.mindev.gov.gr>. In case the Directorate is not competent for the subject the consumer needs guidelines, the platform provides information for the competent body.

Who can file administrative complaints? Can investigations be initiated ex officio?

Any natural person may file a complaint addressed to the Directorate - General of Market and Consumer Protection. After the possibility for electronic submission was introduced, filing a complaint became much easier.

In addition, any legal person may also file a complaint, irrespective of having or not the consumer status, as stipulated in 2(9) of l. 2251/1994, which provides that protection against unfair terms is afforded to any party contracting with the supplier.

Complaints may be eponymous or even anonymous: in this case, the personal details of the complainant are not provided.

Following the receipt of the complaint / consumer report, the Directorate sorts them according to the gravity of the alleged infringements. Afterwards, it reviews them further and processes the complaints only where necessary, by evaluating a number of criteria, including the need to protect the public interest, the impact of the alleged conduct on the general public and the results expected by the intervention of the Directorate in this case.

Investigations regarding violations of Law 2251/1994, may be carried out ex officio by the Directorate - General of Market and Consumer Protection. However, for the Greek Tourism Organisation, a complaint shall take place in order for an investigation to start: the consumers may send their report through mail, e-mail (touristcomplaints@mintour.gr) or take a phone call at 1572.

As for package travel, package holidays and package tours, anyone who purchases or undertakes to purchase the package travel; or any person in whose name the main contractor undertakes to purchase the package travel (other beneficiaries) or any person to whom the main contractor or any of the other beneficiaries transfers the package travel (the transferee), has a right to file a complaint as a contracting party.

Do any specific procedural requirements apply to filing administrative complaints?

In general, a complaint can be filed in the following ways:

- a. by submitting an online form available at the website of Directorate - General of Market and Consumer Protection;
- b. by making a call at the consumer support hotline (1520);
- c. by sending the complaint by email at 1520@efpolis.gr;
- d. by sending the complaint by fax (+30210 3893400);
- e. by sending the complaint by post to the address of the Directorate - General;
- f. by filing the complaint in person at the protocol office of the Directorate or electronically, via the digital protocol service;
- g. by submitting it to a Citizen Service Center (KEP).

Do the administrative authorities have an obligation to investigate the complaint?

Pursuant to Article 13(a) of Law 2251/1994, the General Secretariat for Trade must forward a complaint eligible for further investigation to the supplier, inviting him to reply to the allegations within a specific period of time. The supplier is obliged to comply with the deadline (otherwise, penalties might occur).

According to article 13b of Law 2251/1994 above, the Secretariat may react as follows:

The assessment of the complaints is carried out according to Law 4512/2018. Further investigation by the Secretariat General for Consumers must be completed in due time; the Head of the Secretariat may ask for the opinion of the Consumer Ombudsman during the investigation stage; the Ombudsman must provide a justified answer within 2 months.

The outcome of the evaluation of a complaint is confidential, not enforceable and shall not be communicated to the complainant.

If a question does not constitute a complaint (e.g.: request for an opinion), the Secretariat is not obliged to give a formal answer to the complainant.

Are there any specific requirements regarding the provision of evidence to the competent authorities?

Law no 2251/1994 (as amended and in force) does not contain any such requirements.

II. ENFORCEMENT THROUGH COURT ACTION

Which court actions are available to enforce the Directives?

It is possible for a consumer and/or any consumer association to file a claim before the Civil Courts.

Especially for representative actions, according to Article 10(i) of L. 2251/1994, only consumer associations or the qualified entities of Article 5 of Directive 2020/1828, are allowed to exercise them before national courts.

In addition, cross-border representative actions may be brought before national courts, pursuant to Article 6 of Directive 2020/1828.

It is also possible for the concerned party, to file a claim before the Administrative Courts, requesting the annulment of an administrative act which implements the consumer protection legislation.

Who can start a court action?

A court action can be initiated:

a. by a consumer;

b. by a consumer association. Consumer associations may, as of Article 10(c) of L. 2251/1994 exercise:

any legal remedy for safeguarding the rights of its members;

a representative action before the Greek courts.

a cross-border representative action.

For immediate effect, one can ask the court for interim measures, demanding the omission of an illegal behaviour, or pecuniary compensation until a final decision is issued, or even request the confiscation of defective products endangering public health and public safety.

In addition, anyone who has legal interest may file an action before the Administrative Courts.

Can court actions be initiated by competitors?

It seems that in principle, a competitor does not have the capacity to file a claim under Law 2251/1994: the definition of consumer stipulated in the Law does not refer to competitors.

However, a supplier is protected against comparative advertising, as enshrined in the provisions of Directive 2006/114/EC. These provisions apply cumulatively with the provisions of law 146/1914 regarding unfair competition, based on which a competitor can initiate a court action.

Can the case be handled through an accelerated procedure?

Regarding both individual and collective claims, it is possible to follow the general interlocutory proceedings and to obtain an interim decision until the final decision is issued by the competent Courts. In that case, however, the urgency of the need invoked shall be proven. The enforcement of the judgement on an interim basis is also possible.

Are there any specific requirements regarding the provision of evidence to the court?

In general, the standard rules of evidence provided for in the Greek code of Civil Procedure shall apply: the procedure is conducted on the basis of documentary evidence, but also witnesses may be summoned before the court as a means of evidence, if the object of the sale contract surpasses a certain monetary limit.

More specific requirements related to evidence may be analyzed as follows:

Regarding the sale of consumer goods and associated guarantees, the proof of the exact time that the risk passes to the buyer is essential in order to indicate which party bears the burden of proof. In specific, as set in article 517 of the Civil Code, if a legal defect (or the lack of an agreed property) is detected after the sale, the burden of proving to the seller that there are legal defects lies with the buyer.

Moreover, according to Article 541 GrCC, any lack of conformity which occurs within one (1) year of delivery of the goods shall be presumed to have existed at the time of delivery, unless this is incompatible with the nature of the goods or the nature of the lack. If the contract is enforceable by continuous provision of the digital elements, the lack of conformity associated with the digital elements found during the contract shall be presumed to have existed throughout the intervening period.

As for the producers, according to Article 6(8) of L. 2251/1994, a producer is not liable if they prove that: a) they did not put the product on the market, b) the defect did not exist when the product was put on the market, c) they did not manufacture the product with a view to distribute it and did not distribute it as part of his professional activity, d) the defect is due to the fact that the product was manufactured according to compulsory law rules.

With respect to unfair commercial practices, according to article 9(i), paragraph 4 of the Law 2251/1994: "A supplier who is alleged to have infringed the provisions of this Part shall be required to provide the Court with evidence of the accuracy of the factual allegations relating to a commercial practice, where the Court considers this necessary in the light of the facts of the case, taking into account the legitimate interests of all parties. If such information is not provided or is considered insufficient, the claims of the applicant or applicant consumers shall be presumed to be true."

Regarding unfair contract terms, Article 2 (9) of Law 2251/1994, the supplier bears the burden of proof that there was an individual negotiation for the contractual terms.

For the consumer claims following the non-contentious proceedings (voluntary jurisdiction), the judge may ex officio collect and verify the facts, which have a material effect on the outcome of the trial. Furthermore, the court is entitled under the adversarial system to order a public service to submit documents or to answer questions and to order the examination of a particular witness. Restrictions regarding witness evidence do not apply.

Are there specific procedural reliefs for consumers or consumer associations?

Consumer claims submitted in non-contentious proceedings (voluntary jurisdiction) are re brought to trial at the earliest court date possible.

III. SANCTIONS

What are the possible civil sanctions and remedies for the infringement of the provisions of the Directives?

In general, it is possible for a consumer to file a claim before the Civil Courts requesting pecuniary and non-pecuniary damages. In addition, civil sanctions may be imposed pursuant to the provisions of the Greek Civil Code: for instance, demand full restitution of damages or withdrawal from the contract (382CC). It is also possible for a consumer association to file a claim before the Civil Courts requesting the omission of the supplier's illegal behaviour, even before that behaviour is actually manifested, when there is a violation of the provisions of Law 2251/1994. In addition, it is possible to seek pecuniary compensation due to moral (nonpecuniary) damages. Also, it is possible to request the issuance of interim measures which aim to secure the claims of the consumers until a final court decision is issued. It is further possible to achieve the seizure of the products especially in cases of products that are dangerous for public safety and health. Moreover, it is possible to ask the recognition of the right to rectify the loss incurred on consumers due to illegal behaviour.

In addition to the abovementioned civil sanctions and remedies, regarding the provisions of Directive 2005/29/EC as transposed by Law 2251/1994, it is possible for a claim to be filed before the Civil Courts in order for an unfair commercial practice to stop and prevent it from being repeated in the future, along with asking for compensation for any loss incurred due to that practice.

The above applies by analogy to comparative and misleading advertising, pursuant to article 9 of Law 2251/1994.

After the transposition of Directives 2019/771 and 2019/770, Article 542 GrCC provides for the rights the buyer has, due to the lack of conformity: the buyer may require for the object to actually conform with the envisaged qualities; ask for a reduction of the price; withdraw from the contract; or demand compensation. The rights come with a hierarchical order: the solution of the actual conformity to the contract shall come first, since for the legislator it is preferable for the contract to be enforced.

What are the possible criminal sanctions for the infringement of the Directives' provisions?

There are no direct provisions for criminal sanctions in Law 2251/1994. However, there are other legal documents that provide for criminal sanctions in specific cases. For example, in the case of unfair competition or in the case of misleading advertising in specific areas of practice (e.g., insurance companies, medical sector etc.). The criminal sanctions may be imposed according to the provisions of the Greek Penal Code and I. 4177/2013 (art. 19), as I. 2251/1994 (art. 13a) directly refers to it.

What are the possible administrative sanctions for the infringement of the Directives' provisions?

The general administrative enforcement of law 2251/1994 is exercised by the Directorate - General of Market and Consumer Protection, of General Secretariat for Trade.

As far as the administrative sanctions are concerned, the law stipulates that in article 13a of Law 2251/1994:

"Without prejudice to the Criminal Code (Law 4619/2021, A 95) and Law No. 4177/2013 (A 173) on rules regulating the market for products and services, suppliers, sellers, producers or distributors who violate the provisions of this law shall be subject to one or more of the following sanctions, by decision of the competent body of the Ministry of Development and Investment, upon complaint or ex officio:

- a. recommendation for compliance within a specified time limit, removal of the infringement and its omission in the future or, if the supplier, seller, producer or distributor has already complied before the recommendation, recommendation for omission of the infringement in the future,
- b. a fine of between five thousand (5,000) euro and one million five hundred thousand (1,500,000) euro. If within the last five years prior to the issuance of the decision imposing a fine, more than one (1) decision imposing a fine has been issued against the same supplier, seller, producer or distributor for violations of either this Law or other laws that refer to this Article for the imposition of penalties, the maximum amount of the fine shall be set at three million euros (3,000,000) euros."

In addition, the following steps may be taken by the Minister of Development in relation to a supplier who does not reply to customer complaints:

A supplier, seller, producer or distributor who does not respond to consumer complaints pursuant to par. 1 or does not provide the requested documents, the competent body of the Ministry of Development and Investment may take:

- a. a recommendation for compliance within a specified time limit, removal of the infringement and its omission in the future or, if the supplier, seller, producer or distributor has already complied prior to the recommendation, a recommendation for omission of the infringement in the future with a warning to impose a fine,
- b. imposition of a fine from two thousand (2,000) euros to fifty thousand (50,000) euros.

It should be noted that in cases of repeated infringements resulting in the same violation in the course of 3 years, the fine imposed will be doubled; if repeated infringements resulting in the same violation within the same period, the fine imposed is tripled (Article 22, paragraph 1 of Law 4177/2013 "Rules for regulating the market for products and services and other provisions").

Moreover, in the cases the fines imposed against the same infringer exceed in total the amount of €1,000,000 within 5 years, the Minister of Development may impose temporary withdrawal of the operating licence or temporary ban on engaging in the trading activity for a period of thirty days. If during the same period of five years, the total imposed fines are more than five million euros, the Minister may impose a permanent withdrawal of the operating license, partially or in full, or a permanent ban on engaging in the trading activity (art. 23 paragraph 6 of Law 4177/2013 "Rules regulating the sale of goods and the provision of services, and other provisions").

In addition, in cases the consumer good is foodstuff, according to the definitions of Regulation 178/2002, the competent authority for the imposition of the penalties referred to in Article 9i and Article 13a of I. 2251/1994 shall be the Hellenic Food Authority.

What are the contractual consequences of an administrative order or a judgment on an individual transaction under the Directives?

In case a representative claim has been filed by a consumer association, the legal consequences of the ruling of the Court shall apply to everyone - even if they are not parties to the action. The Directive 2020/1828 offers the possibility to opt in to a representative action before or after the action has been brought. The Greek law offers also the possibility of "late opt-in", meaning the ability of the consumer to be represented in the action after a definitive and irrevocable decision has been issued. In cases, however, that the claim was filed by a single consumer, the ruling of the Court is enforced only between the parties that participated in the action.

The most common contractual consequences of an administrative order or a judgment under the Greek law, are the following: a) the unfair commercial practice to be brought to an end, as a restoration to the previous situation b), compensation for any damage suffered as a result of that practice c) a possible price reduction and d) termination of the contract.

Especially under a representative claim, the court may recognize to consumer associations: a) the cessation or prohibition of illegal behavior by suppliers, even before it manifests itself, when it consists of a violation of Annex II, which results or may result in damage to the collective interests of consumers, b) the case-by-case redress and /or rehabilitation, in particular through compensation or monetary satisfaction, repair, replacement, price reduction and termination of the contract or return of the price paid (Art. 10ia of I.2251/1994).

Can authorities order the trader to compensate consumers who have suffered harm as a result of the infringement?

According to article 9i(2) of Law 2251/1994, it is possible for a consumer or a consumer association to ask for redress for the damage suffered. Every consumer or consumer association has the right, when the provisions of articles 9a and 9c to 9h of I. 2251/1994 are violated, to request a judicial suspension of any unfair commercial practice and its omission in the future, as well as compensation for the damage suffered as a result of this practice. The consumer also has the right to request a price reduction or the termination of the contract. The remedies of the preceding paragraphs may be exercised, separately or jointly, against one or more suppliers of the same economic sector or against a code owner. The remedies are without prejudice to the application of other remedies available to consumers under Union and national law.

Can the administrative authorities or the courts require the publication of their decisions?

It is possible for the Courts to order the publication of the decision, in whole or in part. According to article 9i(3) of Law 2251/1994, the Court may, upon a relevant application, order, by press or in another convenient way, the publication of the decision ordering the cessation of the unfair commercial practice, in whole or in part, as well as the publication of a relevant remedial statement of offender. In Greece, for the publication of court decisions in the legal press (electronic and printed) the practice of anonymizing the data of natural persons (names, addresses, as well as any other element from which the identity of natural persons could be indirectly derived) is followed - except for the data concerning persons of the composition of the court, as well as the authorized lawyers.

In addition, according to 13a of I. 2251/1994, a summary of the decisions imposing the fines referred to in the Article, shall be published by any appropriate means and posted on the website of the Ministry of Development and Investment within five (5) working days from the date of the decision, if the amount of the fine is more than fifty thousand (50,000) euros, and regardless of the amount of the fine in case of repetition. The summary shall include in particular the name of the infringer, its registered office, a description of the infringement and the fine imposed.

IV. OTHER TYPES OF ENFORCEMENT

Are there any self-regulatory enforcement systems in your jurisdiction that deal with aspects of the Directives?

There are several self-regulatory efforts in Greece – some characteristic examples may follow:

The Greek Advertising and Communication Code of Conduct set in 2007 by the Board of Control of Communication, by the Union of Advertising and Communication Companies and the TV and Radio Stations of Greece. It sets the rules of professional code of ethics and behaviour of all those who are related to advertising towards consumers. Two Committees are responsible for the enforcement of this Code: the primary one and the secondary one.

The Code of Ethics for the Provision of Electronic Services to the Consumers signed by the major mobile operators in Greece and ratified by the Greek Committee of Telecommunications (EETT). Adopted in 2008, it is in line with the consumer protection provisions and specifies the rules of conduct for the electronic communications sector. The enforcement of this Code is being monitored by the Greek Committee of Telecommunications (EETT).

The Code of Ethics related to the advertisement of banking and financial services, signed by the major Greek Bank and ratified by the Hellenic Banking Association, also responsible for its enforcement.

The Consumer Code of Conduct for Electronic Commerce (Ministerial Decision οικ. 31619/15.3.2017), setting out the general principles and defining minimum standards of professional ethics to be applied towards the consumers by businesses involved in e-commerce.

The Consumer Code of Ethics (Presidential Decree 10/2017) including principles and rules governing the relationship between consumers and suppliers and their associations covering all commercial sectors of the private and public sector and with binding force. What's more, emphasis is given in strengthening consumer protection with respect to bank agreements. However, it is highlighted that the Code recognises liabilities for consumers and their associations too. Actions against the decisions of these aforementioned bodies follow the administrative procedure, as provided for in each code.

Are there any out-of-court dispute settlement bodies available that deal with aspects of the Directives (e.g. mediation, conciliation or arbitration schemes ombudsmen)?

In Greece there are also several mediating services related to consumer protection.

Law 3297/2004, set up the Independent Authority of Consumer's Ombudsman. The Authority functions as an advisory institution and also as an out-of-court body.

A report may be filed with the Authority as follows:

in person at the Authority's premises;

by post (address: 144, Alexandras Avenue, 11471, Athens),

by email at grammateia@synigoroskatanaloti.gr,

by electronic submission in the Authority's website (<https://www.synigoroskatanaloti.gr/el/ypoboli-anaforas>), after the user has been authenticated through TaxisNet codes.

Involved parties may reach a settlement, otherwise the Ombudsman issues a written recommendation/finding asking the involved parties to apply the solution proposed therein. The parties may accept or reject the recommendation.

In addition, article 11(a) of Law 2251/1994 introduces entities for alternative resolution of contractual disputes related to the sale of goods or the provision of services. The entities shall suggest a solution to the parties, in order to enable the amicable settlement of disputes between consumers and suppliers. However, the consumer may not agree to this solution: the entity's decision is not binding.

Since 1999, the Hellenic Financial Ombudsman operates, dealing with complaints about financial products and banking services, like the unfair trade practices of Banks towards consumers. Within the organizational structure of the Ombudsman, the Hellenic Financial Mediation Center resolves disputes between parties in the financial service sector.

Moreover, consumers from EU Member States, Norway and Iceland facing a cross-border dispute in relation to products or services obtained from traders based in the EU (including Norway and Iceland) may refer to the European Consumer Centre operating in the Member State of their current residence. In particular, consumers who reside in Greece and wish to benefit from the mediation services of ECC-Greece (which operates under the auspices and with the support of the Hellenic Consumer Ombudsman) may submit their respective complaints, in Greek or English, by completing and submitting a complaint form online. As from 2016, ECC-Greece is the contact point for the out-of-court resolution of disputes concerning contractual obligations stemming from online sales or service contracts between a consumer resident in the EU and a trader established in the Union.

Lastly, other bodies existing for serving ADR purposes are the following: a) the Hellenic European Centre of Consumer regarding transboundary EU ADR (supported by the Consumer Ombudsman), b) the SOLVIT network regarding the improper application of the Internal Market rules by the EU public administrations at a cross-border level supervised by the Ministry of Finance, c) the Citizen's Ombudsman (l. 2477/1997), dealing with disputes between citizens and public authorities/entities, d) the Insurance Mediator (Presidential Decree 190/2006 – Directive 2002/92/EC) and e) the Mediator for collective labour disputes (1876/1990). Private organizations acting in the field are a) ADR Point IKE, b) European Institute for Conflict Resolution and c) StartADR. The Online Dispute Resolution (ODR) platform, accessible through the following link: <https://ec.europa.eu/consumers/odr/main/?event=main.home> is also available in Greece (as across all European Union).

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