

I. ADMINISTRATIVE ENFORCEMENT

Which administrative mechanisms are available to enforce the Directives?

In Slovenia, Directives 93/13 (Unfair Contract Terms), 98/6 (Price indication), 1999/44 (Consumer Sales and Guarantees), 2005/29 (Unfair Commercial Practices), 2006/114 (Misleading and Comparative Advertising), 2008/122 (Timeshare), 2009/22/ES (Injunctions), 2011/83/EU (Consumer Rights), 2015/2302 (Package Travel), 2019/771 (Sale of Goods) and 2019/770 (Digital Content and Digital Services) are implemented by the Consumer Protection Act (ZVPot-1) (Official Gazette of the Republic of Slovenia No. 130/22). The general administrative enforcement authority for the Act is the Market Inspectorate (Tržni inšpektorat; ("MI")), which is part of the Ministry of Economic Development and Technology ("MEDT"). MI is competent to enforce provisions of the Directives ex officio and to hear administrative complaints. The general website of MI can be found in English and Slovene at: <https://www.gov.si/en/state-authorities/bodies-within-ministries/market-inspectorate/>

Under the ZVPot-1, the MI has the power to, for example, issue injunctions, make decisions to temporarily prohibit unlawful practices, or require the fulfilment of legal obligations (Articles 232–235). Also, it has the power to impose fines (Articles 237 et seq.). The judicial control of the MI's decisions is possible through the administrative dispute (judicial review of administrative acts).

Directive 2020/1828 (Representative Actions) is implemented by the Collective Actions Act (ZKoIT) (Official Gazette of the Republic of Slovenia Nos. 55/17 and 133/23).

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

MI is competent to enforce provisions of the Directives ex officio and to hear administrative complaints by individuals and associations.

Slovenian law does not pose any specific requirements on the initiator of the complaint proceedings, they can be initiated by any natural or legal person and do not require proof of legal interest. Investigations can be initiated ex officio. The MI website offers a possibility to report infringements of rights even anonymously at:

<https://www.gov.si/zbirke/storitve/prijava-krsitve-trznemu-inspektoratu/>

Reports to other inspectorates and competent bodies can be made here: <https://e-uprava.gov.si/podrocja/drzava-druzba/inspekcijski-postopki.html>

The MI website lists five registered consumers' representative organisations in Slovenia (registration is necessary to obtain the status of the representative organisation) which can also file administrative complaints on behalf of consumers:

- i. Consumer Association of Slovenia (Zveza potrošnikov Slovenije),
- ii. International Institute for Consumer Research (Mednarodni inštitut za potrošniške raziskave),
- iii. Association of Gorenjska Consumers Kranj (Združenje potrošnikov Gorenjske Kranj),
- iv. Društvo za razvoj slovenskega konjenišva (Society for the Development of Slovenian Equestrianism), and
- v. Zavod Kolektiv 99.

Do any specific procedural requirements apply to filing administrative complaints?

A complaint can be filed before the MI either by mail or phone to any of MI's 8 offices in the country or by filling out an online form (anonymously or with personal data). A complainant can also request a response from MI at:

<http://www2.gov.si/mg/tirs/tirs.nsf/f1?OpenFrameSet&Frame=main&Src=/mg/tirs/tirs.nsf/0/838F0883B0BAFDC8C1256CC400393325?OpenDocument>

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

MI must process complaints and upon request inform the complainant of the results of the investigation.

MI publishes its yearly report at http://www.ti.gov.si/si/zakonodaja_in_dokumenti/dokumenti/

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

The MI can only order the trader to refund, replace or repair purchased faulty goods if there is no dispute between the trader and consumer regarding the existence of such fault, if the consumer submits an expert opinion or if the consumer is able to prove the fault beyond doubt (Article 232(2) ZVPot-1).

II. ENFORCEMENT THROUGH COURT ACTION

Which court actions are available to enforce the Directives?

In Slovenia, the judicial system has three main levels. The Constitutional Court of the RS is an independent and autonomous body exercising constitutional review. No specialised courts are in charge of consumer disputes in this judicial architecture.

As a rule, the procedure at first instance is a normal court procedure. Moreover, the Civil Procedure Act governs the small claims procedure (Articles 442 et seq.). It is a special simplified procedure where the amount of a claim does not exceed 2,000 EUR.

Who can start a court action?

A general civil law claim can be brought by anyone having a civil law claim (e.g. for damages).

In Slovenia, collective redress has been available since 2018. It is governed by the Collective Actions Act. Collective actions can take the form of opt-in or opt-out. Article 30 stipulates that the court, when deciding whether the principle of inclusion (opt-in) or the principle of exclusion (opt-out) will be used in the procedure, considers all the circumstances of the specific case. If at least one of the claims refers to the payment of compensation for non-pecuniary damage or if, according to the assessment contained in the claim, at least ten per cent of the group members claim a payment exceeding 2,000 EUR, only the

principle of inclusion can be applied. Moreover, only the principle of inclusion applies to persons who do not have a permanent residence or registered office in Slovenia at the time of the issuance of the decision approving a collective compensation claim. A combination of both systems is possible.

As a general rule, only the following entities are entitled to bring a collective action:

a representative private legal person that meets certain criteria, and

a senior state attorney.

Additionally, the Civil Procedure Act offers the possibility that several plaintiffs file a complaint jointly or for a plaintiff to file a complaint against several defendants. Claims may also be joined by the judge. The Civil Procedure Act also governs test-case procedures (Art. 279b).

Can court actions be initiated by competitors?

In a general civil law claim, competitors may have legal standing if they have civil law claim, e.g. they suffered damages.

Can the case be handled through an accelerated procedure?

There are no special proceedings for consumer-related disputes under Slovenian law. Consumer law disputes are processed in regular civil litigation.

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

In general, in Slovenian Civil Law, each party must prove its statements.

Are there specific procedural reliefs for consumers or consumer associations?

The examined Acts do not contain specific requirements regarding procedural reliefs for consumers or consumer associations.

III. SANCTIONS

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

The competent civil court can award damages in the framework of a claim for civil damages based on Article 131 of the Code of Obligations.

A breach of Directive 93/13 can result in the nullity of an unfair contract term (Article 24(2) ZVPot-1).

A breach of Directive 2005/29 can result in a reduction of the purchase price or withdraw from the contract and request a refund of the amount paid (Article 55 (1) ZVPot-1). Moreover, the consumer also has the right to demand compensation according to the general civil liability rules (Article 55(2) ZVPot-1).

The available remedies for Directive 2015/2302 are the right of withdrawal, compensation for damages and price reduction (Article 193 ZVPot-1).

A breach of Directive 2019/771 can result in (i) repair or replacement, (ii) price reduction or (iii) the withdrawal from the contract and refund (Article 81 ZVPot-1; for services: Article 100 ZVPot-1).

A breach of Directive 2019/770 can result in the right to withdrawal (Article 108 ZVPot-1). The consumer can request

i. to have the goods brought into conformity,

ii. proportionate price reduction, and

iii. termination (Article 118 ZVPot-1).

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

There are no criminal sanctions specifically for infringements of the provisions of the Directives.

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

The MI can require termination of acts found to infringe consumer rights and order:

the fulfilment of a claim for non-conformity of goods (Article 232 ZVPot-1);

imposing the fulfilment of a legal obligation (Article 233 ZVPot-1);

prohibition of sale of goods or provision of services (234 ZVPot-1);

ban on advertising (235 ZVPot-1);

prohibition of unfair commercial practices (236 ZVPot-1).

Culpable contraventions are treated as administrative offences which may be fined with financial penalties. There are several possible offences and resulting fines:

the most serious offences: up to 2.000.000 EUR (238 ZVPot-1);

the more serious offences: 5.000 to 50.000 EUR (239 ZVPot-1);

offences: 1.500 to 5.000 EUR (240 ZVPot-1);

minor offences: 500 EUR (241 ZVPot-1).

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

A breach of Directive 93/13 can result in the nullity of an unfair contract term (Article 24(2) ZVPot-1).

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

Consumers have the possibility of filing a claim for civil damages. Such claim for damages is subject to the general rules provided in the Code of Obligations.

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

The Collective Actions Act provides that the collective compensation judgment is served on the parties to the proceedings and published in the register of collective actions (Article 38(2) ZKot).

IV. OTHER TYPES OF ENFORCEMENT

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

As regards the enforcement of advertising regulations, there is the Slovenian Chamber of Advertisers (Slovenska oglaševalska zbornica; the "SCA"), which adopted Slovenian Advertisers' Codex. Within the SCA, the Advertisers' Tribunal (Oglaševalsko razsodišče; the "Tribunal") (i) decides on complaints regarding advertisements, (ii) gives advice regarding compliance with legislation before airing advertisements and (iii) gives opinions regarding compliance with legislation upon request of the MI or consumer organisations. The Tribunal does not have the power to impose sanctions, it only gives recommendations. The Tribunal's decisions can be found (in Slovene only) at: http://www.soz.si/oglasevalsko_razsodisce/arhiv-razsodb.

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)?

Out-of-court dispute settlement has been implemented in Slovenia with the Out-of-Court Resolution of Consumer Disputes Act. Out-of-court dispute settlement bodies in Slovenia are competent to decide on business-to-consumer disputes initiated by the consumer, except in the field of medical services and public services without economic interest.

The proceedings can only be initiated by the consumer and cannot be anonymous. Cooperation of the trader is voluntary, unless otherwise dictated by law or EU regulation.

The decision is binding for both parties if they were made aware of the consequences of a binding decision and they agreed to it in writing. The decision is however binding for the trader even without his written consent if he accepts the binding effect of the out-of-court dispute settlement body's jurisdiction in the disputed contract. A binding decision of the out-of-court dispute settlement body has the same power as a judgement of a court, meaning each of the parties can use the same legal methods to ensure compliance as they would in case of a judgement. A non-binding decision is considered a recommendation or a proposed solution to the dispute.

Traders are obliged to inform consumers of which out-of-court dispute settlement body they accept as competent if they choose one. If not, they are obliged to inform the consumer that they do not consider any out-of-court dispute settlement bodies competent. A breach of this requirement results in a fine of up to EUR 500.

According to information on the website of the Ministry of Economic Development and Technology, there are 12 registered out-of-court dispute settlement bodies operating in Slovenia: <https://www.gov.si/assets/ministrstva/MGTS/Dokumenti/DNT/varstvo-potrosnikov/Seznam-izvajalcev-izvensodnega-resevanja-potrosniskih-sporov.docx>

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