

Which administrative mechanisms are available to enforce the Directives?

In the Czech Republic, Directive 90/314/EEC ("Package Travel Directive") is implemented by Act no. 89/2012 Coll., Civil Code, as amended ("Civil Code") and Act No. 159/1999 Coll., on certain conditions of business activities in the area of tourism, as amended, Directive 93/13/EEC (Unfair Terms) is implemented by Act no. 89/2012 Coll., Civil Code, as amended, Directive 98/6/EC (Price Indication) is implemented by Act no. 526/1990 Coll., on prices, as amended, Directive 1999/44/EC (Consumer Sales and Guarantees) is implemented by Act no. 89/2012 Coll., Civil Code, as amended, Directive 2005/29/EC (Unfair Commercial Practices) is implemented by Act no. 378/2015 Coll., amending Act no. 634/1992 Coll., on Protection of Consumers, as amended ("Act on Protection of Consumers"), Act no. 40/1995 Coll., on Regulation of Advertising, as amended, Act no. 468/1991 Coll., on Operation of a Television and Radio Broadcasting, as amended, Directive 2006/114/EC (Misleading and Comparative Advertising) is implemented by Act no. 40/1995 Coll., on Regulation of Advertising, as amended and Act no. 89/2012 Coll., Civil Code, as amended, Directive 2008/122/EC (Timeshare) is implemented by Act no. 89/2012 Coll., Civil Code, as amended, Directive 2009/22/EC (Injunctions for the Protection of Consumers' Interests) is implemented by the Act on Protection of Consumers and Act no. 99/1963 Coll., Civil Procedure, as amended, Directive 2011/83/EU (Consumer rights) is implemented by Act no. 89/2012 Coll., Civil Code, as amended.

The general enforcement is handled by the Czech Trade Inspection Authority ("CTIA"). The general website of CTIA can be found at <https://www.coi.cz>.

In specific areas listed below, the enforcement is handled by other Czech authorities:

State Agricultural and Food Inspection Authority ("CAFIA") in the area of agricultural, food and tobacco products (available at: <http://www.szpi.gov.cz/en/>,

Regional Public Health Authority (krajská hygienická stanice) in the area of sale of goods and services regulated by Act no.258/2000 Coll., on protection of public health

State Veterinary Administration (<https://en.svscr.cz/>), and the Regional Veterinary Administration in the area of veterinary care.

Trade Administration in the area of trade and services.

The Czech Proof House for Arms and Ammunition (<https://www.cuzzs.cz/en/>) in the area of arms and ammunition.

Czech National Bank (<https://www.cnb.cz/en/>) in the area of the Czech financial market

State Institute for Drug Control (<http://www.sukl.eu/index.php?lang=2>) in the area of drug control.

The Council for Radio and Television Broadcasting (<http://www.rrtv.cz/en/>) in the area of regulation of advertising.

Energy Regulatory Office (<http://www.ero.cz/en/>) in the energy sector.

Czech Telecommunication Office (<https://www.ctu.eu/competences-ctu>) in the area of electronic communications and postal services.

Office for Personal Data Protection (<https://www.uoou.cz/en/>) in the area of personal data protection.

Customs offices in the area of gambling/gaming.

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

Administrative complaints can be filed by any natural or legal person. There is no need to prove a legitimate interest. In addition, administrative complaints can also be filed by associations of consumers or other similar legal entities established for the protection of consumer interests.

Investigations can be initiated ex officio in accordance with section 42 of Act. No. 500/2004 Coll., Administrative Procedure Code ("Administrative Procedure Code"). Administrative motion/complaint regarding ex officio initiation can be filed by any natural or legal person, materially competent administrative authority or any other body of public authority. However, nobody has the right to demand an administrative authority initiate proceeding ex officio. (The administrative authority considers if the conditions for an administrative proceeding initiation are fulfilled. And if it is so, the administrative authority initiates the proceeding regardless of how it learned about the issue.

Do any specific procedural requirements apply to filing administrative complaints?

Administrative complaints may be filed in writing (signed) or in certain cases also electronically on the websites of individual administrative authorities (e.g. <https://www.coi.cz/podatelna/>; <http://www.szpi.gov.cz/en/suggestions-for-inspection.aspx>).

In writing, the complaints may be filed with the relevant (regional) offices of administrative bodies. The complaints may be also filed personally at a relevant (regional) office of an administrative body during its office hours (there is usually a department of advisory services, which also accepts motions/complaints). No other specific requirements are requested.

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

In accordance with section 42 of the Administrative Procedure Code, the administrative authorities (e.g., CTIA, CAFIA etc.) are obliged to deal with the motion and initiate proceedings ex officio when they find grounds for the initiation. If requested by the person who filed a motion, the administrative authority is obliged to inform them within 30 days from the day when it received the motion that it has initiated proceedings or that it did not find any reason to initiate proceedings ex officio or that it referred the motion to other competent administrative authority.

The administrative bodies have a duty to initiate an investigation on the basis of any natural or legal person motion/complaint. But the investigation can be also initiated within the framework of the administrative body's control activities.

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

In general, every complainant must provide evidence supporting his/her statements (otherwise the motion/complaint is at risk of being dismissed).

In accordance with paragraph (1) section 51 of the Administrative Procedure Code, any evidence appropriate for ascertaining the state of the matter which has not been acquired or taken contrary to legal regulations may be used. Such evidence in particular includes documents, examination, testimony and expert opinion.

Grounds for the issuance of a decision of CTIA are, in particular: petitions of the participants, evidence, facts known to the administrative authority from its official activity, sources from other administrative authorities or other public bodies.

The administrative authority (e.g. CTIA, CAFIA) weighs the relevance of the sources, particularly evidence, under its consideration except where the statute provides that a source is binding for the administrative authority.

II. ENFORCEMENT THROUGH COURT ACTION

Which court actions are available to enforce the Directives?

A cease-and-desist action or a general claim for performance (depending on the type of contract) or civil damages (under sections 2909, 2910 or 2913 of the Civil Code) can be filed before the competent district court.

Under paragraph (1) section 74 of Act No. 99/1963 Coll., Civil Procedure Code ("Civil Procedure Code"), an interim measure may be ordered by the presiding judge before proceedings are initiated, if necessary, to provisionally modify the relation of participants, or if it is feared that the enforcement of the judicial decision could be jeopardized.

Although it is possible to find some partial aspects in individual legal regulations, there is no comprehensive regulation on class action in the Czech Republic (currently, there is a proposal for a new Act on class actions in the Czech Parliament (<https://psp.cz/sqw/text/tiskt.sqw?O=8&CT=775&CT1=0>)).

Partial elements of collective protection can be found in the current legal system especially in the provisions of Act No. 89/2012 Coll., The Civil Code, Act No. 99/1963 Coll., The Code of Civil Procedure, and marginally also in Act No. 634/1992 Coll., on Consumer Protection, as amended. Certain parts of regulation can also be found in the area of industrial property protection regulation, banking, insurance and corporate law.

Who can start a court action?

The court action can be initiated by a natural person or legal entity with direct and legitimate interest in the case, including qualified associations, such as consumer associations. According to section 25 of the Act on the Protection of Consumers, a motion to begin court proceedings for injunctions in matters concerning the protection of consumer rights may be filed by such persons or entities, who may then participate in the proceedings.

Associations or professional organisations which have a legitimate interest in protecting consumers shall have the right to file motions with government authorities in connection with their supervision over the protection of consumer interests. Government authorities with which such motions are filed shall inform such associations or professional organisations of the results of the applicable proceedings without undue delay; no later than within two months of the filing of a motion.

Can court actions be initiated by competitors?

Yes, court actions can be initiated by competitors. Under section 2998 of the Civil Code, a person whose right has been jeopardized or violated (e.g. competitor) by unfair competition may request the violator to refrain from competing unfairly or to remove a defective state. He may also request adequate satisfaction, compensation for damage and restitution of unjust enrichment.

Can the case be handled through an accelerated procedure?

The Civil Procedure enables the issuance of a payment order instead of a regular judgement (Sections 172 and subsequent of the Civil Procedure Code).

The court shall be authorised, without the express request of the plaintiff and without hearing the defendant, to issue a payment order if:

- (i) the action filed is for money;
- (ii) the plaintiff states all the information needed for the court decision on the plaintiff's right;
- (iii) the defendant's address is known ; and
- (iv) if the payment order is not delivered to the defendant abroad.

If any of these are not met, the court will order a hearing and the proceedings continues in a standard way.

The payment order must be personally delivered into the hands of the defendant (i.e., the presumed delivery shall not apply for the payment order). The defendant may file a protest within 15 days. Such appeal means the cancellation of the payment order, whereby the court shall order a hearing and the proceedings continue in the standard way. If the protest is not filed within 15 days, the payment order comes into legal force.

The plaintiff may also submit an action for an electronic payment order (Section 174a of the Civil Procedure Code). The court may issue an electronic payment order if the following conditions, along with the previously mentioned conditions are met:

- (i) if the application is filed in an appropriate electronic form (available online);
- (ii) if it is signed by a recognised electronic signature of the plaintiff; and
- (iii) if the claim does not exceed the amount of CZK 1,000,000 (approx. EUR 40,000).

A protest against an electronic payment order may also be filed by an electronic form signed by a guaranteed electronic signature. Such form shall be published by the Ministry in a manner allowing remote access.

The Civil Procedure Code also provides the possibility to file a European payment order (Section 174b of the Civil Procedure Code). The European payment order must be delivered into the hands of the defendant (personally); replacement delivery is excluded. A court competent for the proceedings for the petition for reviewing a European payment order shall include the court that issued the European payment order. The court resolution by which a petition for reviewing a European payment order has been satisfied shall be delivered to participants in the proceedings.

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

According to section 120 of the Civil Procedure Code, parties to the proceedings are obliged to provide evidence for all of their statements. The court may take also evidence which has not been presented by the parties. The court shall base its decision on the facts ascertained from the evidence it has taken and on other facts of non-contentious nature concerning the litigants if it does not have reasonable or serious doubts about their veracity.

Evidence is any means of proof which allow to establish the facts, such as: examination of witnesses, expert opinions, reports and statements of bodies and legal persons, documents, inspection and examination of the parties.

Are there specific procedural reliefs for consumers or consumer associations?

As far as the consumers in civil proceedings are concerned, in the following situations a reversal of the burden of proof comes about:

In compensation for material damage, a consumer has to prove the damage suffered but it is not up to him/her to prove *conditio sine qua non* between the caused damage and lawless behaviour.

Under paragraph (2) section 2989 of the Civil Code, if a consumer asserts his/her right to have a violator refrain from competing unfairly or remove a defective state, and if it is a case provided under sections 2976 to 2981 or section 2987, the violator must prove that he/she did not compete unfairly. If a consumer asserts his/her right to compensation for damage, the violator must prove that the damage was not caused by unfair competition.

Under paragraph (2) section 2894 of the Civil Code, if the duty to provide compensation to another for non-pecuniary harm has not been expressly stipulated, it affects the tortfeasor only where specifically provided by a statute. In such cases, the duty to provide compensation for non-pecuniary harm by providing satisfaction is assessed by analogy under the provisions on the duty to provide compensation for damage.

III. SANCTIONS

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

The possible outcomes from the civil proceedings are mainly: the obligation to perform, refrain from unlawful conduct, and payment of damages.

A debtor must discharge the debt at his own expense and risk, properly and in due time. A person is obliged to perform without defects, in conformity with the reserved or usual properties so that the subject of the performance can be used in accordance with the contract, and also, in accordance with the purpose of the contract, if known to the parties. If a debt is discharged defectively, the recipient has rights arising from a defective performance. Defective performance occurs if a person:

- a) provides the subject of performance lacking the determined or stipulated properties,
- b) fails to notify the defects of the subject of performance, although the subject usually lacks such defects,
- c) falsely assures the creditor that the subject of performance has no defect, or that the thing is fit for a particular use, or
- d) unlawfully alienates a thing of another as his own.

A right from a defective performance does not exclude the right to compensation for damage, however, what can be achieved by asserting the right from a defective performance may not be claimed for any other legal cause.

A debtor who fails to perform his debt properly and in due time is in default is not liable for the default if he cannot perform due to the creditor's default. A creditor may enforce the discharge of the debt from the debtor in default or may withdraw from the contract under the conditions stipulated in the contract or provided by the Civil Code.

A creditor who has properly fulfilled his contractual and statutory duties may require that a debtor who is in default of payments of a pecuniary debt pay default interest, unless the debtor is not liable for the default. The rate of default interest is determined by a government decree (no. 351/2013 Coll.); if the parties do not stipulate the amount of default interest, the rate thus determined is considered to be the one stipulated.

A creditor is entitled to compensation for damage incurred as a result of the failure to discharge a pecuniary debt only if it is not covered by default interest.

A debtor bears the risk of damage to the thing incurred for whatever reason for the duration of his default, unless he proves that the damage would have also been incurred had he properly fulfilled his duty, or that the damage was caused by the creditor or owner of the thing. This also applies if the debtor disposes of the thing in contradiction to his other duties under the obligation.

The competent civil court can award damages in the framework of a claim for civil damages based on sections 2909, 2910 or 2913 of the Civil Code.

According to sec. 2909 CC, a tortfeasor who causes harm to a victim by an intentional breach of good morals has the duty to provide compensation for it; however, if the tortfeasor was exercising his right, he has the duty to provide compensation for the damage only if his main purpose was to harm another.

According to sec. 2910 CC, a tortfeasor who is at fault for breaching a statutory duty, thereby interfering with an absolute right of the victim, shall provide compensation to the victim for the harm caused. A tortfeasor also becomes obliged to provide compensation if he/she interferes with another right of the victim by a culpable breach of a statutory duty enacted to protect such a right.

According to sec. 2909 CC, if a party breaches a contractual duty, such a party shall provide compensation for the resulting damage to the other party or the person who was evidently intended to benefit from the fulfilment of the stipulated duty.

There are also other specific legal reasons for claim of damages (damage resulting from operating activities, damage caused by a particularly hazardous operation, damage caused by the operation of a means of transport, damage caused by a product defect, etc.).

Under section 2988 of the Civil Code, a person whose right has been jeopardized or violated by unfair competition may request the violator to refrain from competing unfairly or to remove a defective state. He may also request adequate satisfaction, compensation for damage and restitution of unjust enrichment. The competent civil court will decide.

Under paragraph (1) a) and paragraph (14) d) section 24 of the Act on Protection of Consumers, a person (natural or legal) who breaks the rules of unfair business practices can be fined by administrative sanctions of up to 5 000 000 CZK (approx. EUR 200 000). The administrative court will decide on the fine.

Under paragraph (4) section 155 of the Civil Procedure Code, in matters regarding the protection of rights violated or put at risk by unfair competitive behaviour, the protection of intellectual property rights and in matters regarding the protection of rights of consumers, the court shall be authorised in the verdict to grant the participant, the action of whom it has upheld, upon the petition by that participant, the right to publish the judgement at the expense of the unsuccessful participant; depending on the case circumstances, the court shall also determine the extent, form, and manner of publishing.

There is no max. or min. amount of fines. (Repeated breaking of law can lead to higher fines)

The purposes to which the profits of monetary fines are dedicated are not provided under national law.

There is no link between the level of monetary fines and the trader's turnover.

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

In accordance with Act no. 40/2009 Coll., Criminal Code as amended and of the Act no. 418/2011 Coll., on Corporate Criminal Liability ("Corporate Criminal Liability Act" - sanctions for legal persons) the following sanctions may be imposed for the infringement:

I. Imprisonment:

Under section 52 of the Criminal Code,

2) Unless defined otherwise under criminal law, punishment by a prison sentence denotes, a) an unconditional prison sentence, b) a conditional conviction to the punishment by prison sentence, c) a conditional conviction to the punishment by prison sentence with supervision.

Under section 54 of the Criminal Code,

1) A punishment of an unconditional prison sentence shall be imposed for a maximum of twenty years unless it involves an extraordinary increase of a prison sentence (Section 59), imposition of a prison sentence upon an offender of a criminal offence committed in favour of an organised criminal group (Section 108) or an exceptional punishment (Section 54) is concerned.

II. Monetary penalty

Under section 67 of the Criminal Code,

- 1) The criminal court may impose a monetary penalty where the offender sought to secure or secured for themselves or for another person any material benefit by committing an intentional criminal offence.
- 2) Where the conditions under Subsection 1 have not been met, the court may only impose a monetary penalty if
 - a) criminal law allows the imposition of such punishment for the criminal offence committed, or
 - b) it is imposed for an offence and given the nature and severity of the offence committed and the character of the offender and their circumstance, they do not impose the unconditional prison sentence simultaneously.
- 3) A monetary penalty may be imposed as a separate punishment where, in consideration of the nature and seriousness of the criminal offence committed and the character of the offender and their situation, no other punishment need be imposed.

For legal persons:

Under section 18 of the Corporate Criminal liability Act

- 1) The criminal court may impose a fine on a legal entity if it condemns for an intentional crime or offence committed through negligence. Imposition of fines shall not prejudice the rights of the injured.
 - 2) Daily rate is at least CZK 1,000 and a maximum of 2 000 000 CZK. When determining the amount of the daily rate the court shall take into account financial status of a legal person.
 - 3) Provision of paragraph 17 sec. 4 shall be used similarly.
- There is no max. or min. amount of fines. (Repeated breaking of law can lead to higher fines)

III. Forfeiture of item

Under section 70 of the Criminal Code,

- 1) The criminal court shall impose forfeiture of the item obtained by the offender through a criminal offence or as a reward for the criminal offence.
- 2) The court may impose forfeiture of an item
 - a) that was used for committing a criminal offence or that was intended for committing a criminal offence, or
 - b) that was, even if only partially, acquired by the offender for the item stated in Subsection 1 if the value of the item stated in Subsection 1 is not negligible in relation to the value of the acquired item.
- 3) The court may only impose forfeiture of a possessed item where the possession concerned belongs to the offender.
- 4) If, contrary to another legal regulation, the offender has an item referred to in Subsection 2 in their possession with regard to which the forfeiture of the item may be imposed, the court shall always impose this punishment as well.
- 5) Before the decision enters into full force and effect, the prohibition on misappropriating a confiscated possession or other asset applies; this includes the prohibition on any activities that would lead to defeating the punishment involving the forfeiture of an item of possession or other asset.
- 6) The confiscated possessed item falls to the State.

For legal persons:

Under section 19 of the Corporate Criminal Liability Act, the court may impose a forfeiture on a legal person, including forfeiture of substitute values, under the conditions stipulated by the Criminal Code.

• IV. Punishment by disqualification

Under section 73 of the Criminal Code,

- 1) The criminal court may impose a punishment consisting of disqualification of one to ten years if the offender has committed a criminal offence in association with such activity.
- 2) The criminal court may only impose a punishment by disqualification as a separate punishment where the criminal law permits the administration of such punishment for the criminal offence committed and if, with regard to the nature and seriousness of the criminal offence committed and the character of the offender and their personal circumstance, no other punishment need be imposed.
- 3) The punishment by disqualification consists of the convict being prevented for the duration of the punishment from pursuing certain employment, occupation or function or such an activity which is conditioned by a special licence, or whose pursuit is regulated by another legal regulation.

For legal persons:

Under section 20 of the Corporate Criminal liability Act

- 1) The court may impose disqualification to a legal person from one to twenty years, if the crime was committed in connection with this activity.
- 2) Provision of paragraph 17 sec. 4 shall be used similarly.

V. Punishment by publishing a sentence

Under section 23 of the Corporate Criminal Liability Act –

- 1) The criminal court may impose a penalty of publication of the judgement, if it is necessary to acquaint the public with the judgement of conviction, especially according to the nature and seriousness of the crime, or if it is required by the interest in protecting the safety of people or property, or society. In this case, the court determines the kind of public means of communication in which the judgement is to be published, the extent of its publication and the period within which the legal entity shall publish the judgement.
- 2) The penalty of publication of the judgement lies in the fact that the convicted legal entity is allowed at his own expense a final conviction, or its part to publish in the court determined kind of means of communication, with data indicating the name of a company or legal person and its head office. Data allowing identification of the natural person or legal entity that is different from the convicted legal entity mentioned in the operative part of the judgement and the reasons must be made anonymous before publication.

For example, these crimes can be committed by infringement of the Directives:

Unauthorised Entrepreneurial Activities according to section 251 of the Criminal Code (imprisonment of up to eight years or a monetary penalty or punishment by disqualification).

Damage to the Consumer according to section 253 of the Criminal Code (imprisonment of up to eight years or punishment by disqualification or forfeiture of item).

Violation of Regulations on Rules of Competition according to section 248 of the Criminal Code (imprisonment of up to eight years or monetary penalty or punishment by disqualification or forfeiture of item).

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

The most common administrative sanction in accordance with Act no. 634/1992 Coll., on Protection of Consumers, which may be imposed for the infringement is a fine. The administrative court will award the fine. Under the paragraphs (1) to (13) section 24 of this Law, all kinds of offences committed by a trader or a legal entity, that could be punished by a fine are mentioned Paragraph (14) sets the specific amounts of the fines. The fines under this paragraph are divided into five groups depending on seriousness of the offence committed. The groups are: fines up to CZK 1 000 000 (approx. EUR 40 000), fines up to CZK 2 000 000 (approx. EUR 80 000), fines up to CZK 3 000 000 (approx. EUR 120 000), fines up to CZK 5 000 000 (approx. EUR 200 000), fines up to CZK 50 000 000 (approx. EUR 2 000 000).

There is no max. or min. amount of fines. (Repeated breaking of law can lead to higher fines)

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

The administrative and contractual consequences are usually separated. The aim of the administrative order is to sanction the breach of public law (market conditions, price control, safety regulation, unfair practices, etc.), the contractual consequences (such as invalidity of the contract, damages etc.) which belong to the private law and is a matter of individual lawsuit or claim.

A contract may be invalid if it is contrary to good morals or contrary to a statute, if so required by the sense and purpose of a statute. In certain cases (such as when a person acted in error concerning a decisive circumstance), if the invalidity of a juridical act is determined to protect the interest of a person, invalidity may only be invoked by that person. However, a court shall, even of its own motion, take into account the invalidity of a juridical act which is manifestly against good morals or which is contrary to a statute and manifestly disrupting public order. This also applies in cases where a juridical act requires the provision of a performance which was impossible from the beginning.

According to sec. 1813 CC, contractual arrangements which establish, contrary to the requirement of proportionality, a significant imbalance in the rights or duties of the parties to the detriment of the consumer are presumed to be prohibited (this does not apply to stipulations on a subject of performance or price if they are provided to the consumer clearly and understandably). Disproportionate stipulations are disregarded unless invoked by the consumer.

Under the regulation of unjust enrichment (sec. 2991 CC), a person who is enriched at the expense of another without a just cause must, to the extent of his enrichment, make restitution to the impoverished person. An unjustly enriched person means a person who acquires a pecuniary benefit by being provided with a performance based on no legal cause, a performance based on a legal cause which expired, by the unlawful use of the value of another or by performance which the unjustly enriched person was lawfully obliged to provide but which was provided in his stead.

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

Yes, the authorities (especially courts) can order the trader to compensate consumers. However, this is only possible when the consumer or group of consumers ask for the compensation, usually in form of lawsuit. Neither the court nor the administrative authority can decide that the trader should compensate consumers without a lawsuit of a consumer only based on the infringement. The authority can force the trader to rectify the situation by admonition or fines but not to compensate the consumers.

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

Yes, they can. As it was previously mentioned, punishment by publishing a sentence is enshrined in paragraph (4) section 155 of the Civil Procedure Code.

Publishing a sentence is also enshrined in section 23 of the Act no. 418/2011 Coll., on Corporate Criminal Liability.

As for the CTIA, the published results of inspections can be found at <http://www.coi.cz/en/for-consumer/results-of-inspections/>

IV. OTHER TYPES OF ENFORCEMENT

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

There are not many functioning examples of non-state regulation such as industry standards, best practices, professional codes of ethics, self-policing and corporate social responsibility, although some of the companies declare to have them.

In the Czech Republic however, there is a Project of Alternative Dispute Resolution relating to consumer disputes (disputes arising from the contractual relationship between entrepreneur and consumer) run by the Ministry of Industry and Trade. In the event that the entrepreneur and consumer want to solve their dispute by alternative means, it is sufficient to fill out a simple form and send it to the appropriate point of contact. Officers shall provide qualified information and recommend methods of dispute resolution. If the dispute is not resolved soon thereafter, the officer shall arrange all essential steps necessary to initiate mediation or arbitration. <http://www.mpo.cz/cz/ochrana-spotrebitele/mimosoudni-resenispotrebitelckych-sporu-adr/>

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)?

Pursuant to Act 634/1992 Coll., on Consumer Protection, the consumer has the right to out-of-court settlement of a consumer dispute from a purchase contract or a contract for the provision of services, with the exception of:

- contracts concluded in the field of health services provided to patients by healthcare professionals for healthcare, including prescribing the supply and provision of medicinal products and medical devices,
- in the field of services of general interest of a non-economic nature,
- with public providers of further or higher education.

The subject of out-of-court settlement of consumer disputes within the meaning of this Act is:

- the financial arbitrator in the area of financial services to the extent stipulated by the legal regulation governing the financial arbitrator (Act no. 229/2002 Coll.),
- in the area of electronic communications and postal services the Czech Telecommunication Office (Act no. 127/2005 Coll., Act. No. 29/2000 Coll.)

f) in the field of electricity, gas and heating industry, Energy Regulatory Office within the scope of the legislation governing electricity, gas and heating industry (Act. No 458/2000 Coll.)

g) in other cases the Czech Trade Inspection Authority or another body authorised by the Ministry of Industry and Trade.

h) If the authorised subject is a professional chamber with compulsory membership (e.g. Czech Bar Association), it exercises competence in the area stipulated by a specific law.

There are other specific means of out-of-court dispute settlement, such as mediation and arbitration.

Pursuant to Act no. 202/2012 Coll., on mediation, mediation is a procedure for resolving a conflict involving one or more mediators who promote communication between those involved in the conflict so as to help them reach a friendly solution to their conflict by concluding a mediation agreement. The final mediation agreement is concluded by all parties to the conflict. In addition to the signatures of the parties to the conflict, its requirements also include the date of its conclusion, supplemented by the mediator, and his/her signature confirming that the mediation agreement was concluded within the mediation. The Ministry of Justice supervises compliance with the obligations set by the mediator by Act no. 202/2012 Coll.; this does not apply if the mediator is a lawyer or an unregistered mediator.

Arbitration is regulated by Act no. 216/1994 Coll., on arbitration proceedings and on the enforcement of arbitral awards. This Act regulates the resolution of property disputes by independent and impartial arbitrators, the resolution of disputes belonging to the federal self-government by the arbitration commission of the association according to the Civil Code and the enforcement of arbitral awards. From 1 December 2016, however, it is not possible to conclude arbitration agreements in disputes arising from consumer contracts.

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