

Uz sākumlapu&gt;Tiesību akti un judikatūra&gt;Patērētāju aizsardzības tiesību aktu datubāze&gt;a

Enforcement

GREECE

Enforcement  (208 Kb) 

## I. ADMINISTRATIVE ENFORCEMENT

### Which administrative mechanisms are available to enforce the Directives?

In Greece, Directive 1994/44/EC is incorporated in Law no 2251/1994 on Consumer Protection and in the Civil Code.

Law no 2251/1994 on Consumer Protection implements also Directive 2011/83/EU (as adopted by the joint ministerial decision no. Z1-891/2013), Directive 2005/29/EC [as enacted by law 3587/2007-“Amendment and supplementation of Law no 2251/1994 on Consumer Protection as in effect - Transposition of European Parliament and Council Directive 2005/29/EC (OJ L 149) and article 3 (“Implementation of points 11 and 26 of the Annex 1 of Directive 2005/29/EC) of Ministerial Decision no. Z1-111], Directive 1993/13/EC, Directive 2006/114/EC [pursuant to Article 11 of Law no. 3587/2007) which supplemented the provisions of the Law no 2251/1994 (art. 9)], Directive 2009/22/EC (pursuant to article 2 (“Implementation of Directive 2009/22/EC) of Ministerial Decision no. Z1-111].

Therefore, Law 2251/1994 has been amended several times. In particular, and with regard to the above Directives in question, amendments took place as follows: with law 3587/2007, then with M.D. no. Z1-111/2012 and then with M.D. no. Z1-891/2013.

Directive 2008/122/EC is incorporated in Joint Ministerial Decision Number Z1-130. Harmonisation of Greek legislation with Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long- term holiday product, resale and exchange contracts.

The general administrative enforcement of the aforementioned legal framework is enacted by the General Directorate of Consumer Protection and Market Surveillance of the Secretariat General for Commerce and Consumer Protection of the Ministry of Development and Competitiveness. This administrative body is responsible for the auditing or the enforcement of the legal provisions relevant to consumer protection (and as such of Law no 2251/1994 on Consumer Protection - part of which are the provisions regarding the sale of consumer goods and associated guarantees and the Unfair Trade Practices provisions or the unfair contract terms provisions) and is competent for receiving administrative complaints. The official website of the Secretariat General for Commerce and Consumer's protection is <http://www.mindev.gov.gr/>.

Directive 98/6/EC is incorporated in the Ministerial Decision no. A2-718/2014 - Codification of Rules on the Movement and Trade of Products and the Provision of Services. The administrative enforcement of this legal framework is enacted in particular by the Directorate of Institutional Regulations and Market Surveillance of Products and Services of the General Directorate of Consumer Protection and Market Surveillance.

Directive 90/314/EEC is incorporated in the presidential Decree no. 339/1996 (as in force) on package travel, in line with the Directive 90/314 (EEL 158/59) on package travel, package holidays and package tours. The Greek Tourism Organisation is the competent authority to enforce the aforementioned legislation regarding tourist offices, shipbroker offices and tourist accommodation, while the Ministry of Shipping and Island Policy is the competent authority regarding sea transport.

In addition, as far as indication of prices is concerned, complaints may be filed at the department of Commerce of the Regional Units of Greece.

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

Any natural person may file a complaint before the General Directorate of Consumer Protection and Market Surveillance.

In addition, any legal person may also file a complaint in case the good sold has a defect or lacks an agreed property or the provisions regarding its guarantee are not being respected or in case of unfair terms in consumer contracts (the definition of “consumer” adopted in the Greek laws that implemented Directives 1994/44/EC, 93/13/EC and 2006/114/EC is wider than the one provisioned in the Directives – it includes also any legal person that is the final recipient of a product or service).

Complaints can be eponymous or anonymous

Following the receipt of a complaint / consumer report, the Directorate sorts them according to the gravity of the alleged infringements. Then, the Directorate 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 on the general public by the alleged conduct and the results expected of the intervention of the General Directorate of Consumer Protection and Market Surveillance in this case.

Investigations regarding violations of Law no 2251/1994 on Consumer Protection, may be carried out ex officio by the General Directorate of Consumer Protection and Market Surveillance. However, a complaint should take place in order for the Greek Tourism Organisation to carry out an investigation.

As far as package travel, package holidays and package tours are concerned, anyone who purchases or undertakes to purchase the package travel (principal contractor), or any person on whose behalf the principal contractor undertakes to purchase the package travel (other beneficiaries) or any person to whom the principal contractor or any of the other beneficiaries transfers the package travel (the transferee), has a right to file a complaint as contracting party to the contract.

In case an infringement takes place within Greek territory, any qualified entity from another EU Member State whose interests are affected by the infringement can also file a complaint before the competent administrative authorities (art. 10 paragraph 30 indent c of Law no 2251/1994-implementation of Directive 2009/22/EC on injunctions for the protection of consumers' interests)

### 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 of complaint before the General Directorate of Consumer Protection and Market Surveillance that can be found at (for anonymous complaints) <http://www.mindev.gov.gr/καταγγελίες-πολιτών/καταγγελίες-προϊόντων/ανώνυμη-καταγγελία-προϊόντος/> (for products) or <http://www.mindev.gov.gr/καταγγελίες-πολιτών/καταγγελίες-υπηρεσιών/ανώνυμη-καταγγελία-υπηρεσίας/> (for services) or at (for eponymous complaints) <http://www.mindev.gov.gr/καταγγελίες-πολιτών/καταγγελίες-υπηρεσιών/ανώνυμη-καταγγελία-υπηρεσίας/>

mindev.gov.gr/καταγγελίες-πολιτών/καταγγελίες-προϊόντων/επώνυμη-καταγγελία-προϊόντος/ (for products) or <http://www.mindev.gov.gr/καταγγελίες-πολιτών/καταγγελίες-υπηρεσιών/επώνυμη-καταγγελία-υπηρεσίας/> (for services). There is also a form available for complaining on illegal trade, which can be found on the following domain:

<http://www.mindev.gov.gr/καταγγελίες-πολιτών/καταγγελίες-παρεμπορίου/καταγγελία-παρεμπορίου/>

b) by contacting the dedicated consumer protection call centre at 1520 and making an oral complaint;

c) by sending the complaint by email at [1520@efpolis.gr](mailto:1520@efpolis.gr);

d) by sending the complaint by fax (+30210 3893400);

e) by sending the complaint by post to the address of the General Directorate of Consumer Protection and Market Surveillance;

f) by filing the complaint in person at the protocol office of the Directorate or electronically, via the digital protocol service, available at <https://protocol.mindev.gov.gr/home>

Also, regarding infringement of the laws on package travel, package holidays and package tours, a complaint can be filed before the Greek Tourism Organisation and in particular before the Department of Complaints and of Consumer-Tourist Protection in the following ways: either (a) in person, or (b) by post, or (c) by email through the website of the authority (<http://www.gnto.gov.gr/el/%CE%B5%CF%80%CE%B9%CE%BA%CE%BF%CE%B9%CE%BD%CF%89%CE%BD%CE%B9%CE%B1>) or (d) by telephone at 1572.

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

Following article 13 a) of Law no 2251/1994, the Secretariat General for Consumers must forward the complaint (that is eligible for further investigation) to the supplier with an invitation to reply to the allegations within a specific period of time set by the General Secretariat. The supplier is then obliged to respond within this term (otherwise penalties might apply for failure to reply).

Based on the categories of complaints submitted to the Secretariat General for Consumers according to article 13B of Law no 2251/1994 above, as mentioned in detail in the previous question, the following should be mentioned:

a) Complaints that do not fall within the competence of the Secretariat General for Consumers according to the provisions of Law no 2251/1994 are forwarded to the appropriate Authority and the complainant is informed within 10 days.

b) Complaints that include a request that is not precise, is non-comprehensible or that includes a request that is repeated in an abusive way are immediately dismissed and set into the archive. The complainant is informed within 30 days. In addition, the Secretariat General for Consumers is not obliged to answer in consumers' complaints that are not related to infringements of the provisions of the consumer protection Law no. 2251/1994.

c) Complaints that fall within the competence of Secretariat General for Consumers according to Law no 2251/1994. In this case, the Secretariat General for Consumers evaluates the necessity to further investigate the case, taking into consideration especially the possible impact of the potential outcome of the case on the public interest and/or on the protection of public health and/or on the consumers' security as well as the possible effects on consumers in general or on sensitive groups of the population in particular. If the head of the Directorate of Protection evaluates that a complaint must be further investigated, he assigns the case to the appropriate Department. The head of the Directorate may temporarily put on hold some cases until additional details come up that establish the necessity of the investigation. The Minister of Development and Competitiveness, or the Secretariat General for Consumers may ask for the opinion of the Ombudsman during the investigation stage. The Ombudsman must provide a justified answer to the complaint within 2 months. The Secretariat must issue a decision within reasonable time.

If the Secretariat General for Consumers assesses that there is no need to further investigate a complaint, the complainant is informed accordingly.

#### **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.

The organiser and/or retailer or their local representative of package travel, package holidays and package tours, should, in the event of a written complaint, when called on by the supervisory authority, be in a position to provide explanations and prove that they acted promptly to find appropriate solutions, according to the provisions of PD

339/1996.

## **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.

In case a collective action is filed by a consumer association, the competent court is the (multiple-membered) Civil Court of First Instance of the place of residence of the defendant.

In addition, according to article 10 par. 15 of Law no 2251/1994 on Consumer Protection, every consumer association has the legal right to seek the legal protection of its members before the courts and administrative authorities. Particularly, it has the legal right to bring a court action, to apply for interim measures, to apply for the annulment or recourse of administrative acts and to be a civil party to the proceedings of the court. Every consumers association has also the right to intervene in pending trials of its members to support their rights as consumers.

It is also possible to file a claim before the Administrative Courts requesting the annulment of an administrative act deriving from the implementation of any of the consumer protection law (no 2251/1994) provisions.

### **Who can start a court action?**

A court action can be initiated:

a) by a consumer;

b) or/and by a consumer association (this refers only to consumer associations that are exclusively intended to protect the rights and interests of consumers, that have more than 500 active members and that have been registered in the consumer association's public registrar for over than one year – individual/personal interest of the association is not necessary). Art. 10 §§15 and 16d of L. 2251/1994 establish the exceptional right of consumer associations to institute civil proceedings, asking for the protection of a specific right belonging to one of their members or a consumer. In this case, standing to sue is characterised not only as exceptional, but concurrent as well: the actual owner of the right can bring an action in his own name, even if an action brought by a consumer association for the same cause is pending. Vice versa is not possible: lis pendens of the action brought by the owner of the right impedes consumer associations from asking for the judicial protection of this right as well; Greek procedural law does not provide the admissibility of class actions. However, L. 2251/1994 provides that consumer associations which have been entered in the Consumers Association Register for at least one year, may bring any kind of action in order to protect consumers' general interests. A number of claims (of no restrictive character) are mentioned in the law, such as claims against the supplier to cease and desist from any illegal behaviour, even prior to its materialisation, regarding the use of unfair standard terms, contracts

negotiated away from business premises, contracts negotiated at a distance, after-sales services, defective products, misleading, unfair, comparative or direct advertising, etc., and claims for the financial redress of non-pecuniary damages.

c) or/and jointly by more than one consumers association of first degree, if the total number of active members of all associations exceeds 500 members (even if each individual association has less members), or, jointly, by more than one consumers association of first and second degree, even if the first degree association has less active members than the required minimum number of members (500);

d) or/and by commercial, industrial, handcraft and professional chambers.

Moreover, according to art. 10 paragraph 30 indent a of Law no 2251/1994 as amended and in force – implementation of Directive 2009/22/EC on injunctions for the protection of consumer interests (said paragraph was added with article 2 of Ministerial Decision no. Z1-111/2012)-, in case of an infringement that occurs within the Greek territory, any qualified entity from another Member State of the EU, can file a collective claim (where the interests protected by that qualified entity are affected by the infringement) in order to request the omission of the supplier's illegal behaviour (even before this behaviour is actually manifested). In addition, it can take interim measures to secure the demands of the consuming public for the omission of illegal behaviour or the pecuniary compensation until an enforceable decision is issued, or even request the seizure of flawed 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 no 2251/1994 (as amended by law 3587/2007) - the definition of consumers held in articles 1 paragraph 4, 9 a) s. a) and 3 paragraph 1, does not refer to competitors.

However, a supplier is protected against comparative advertising (with respect to Directive 2006/114/EC on misleading and comparative advertising) that does not comply with the legal conditions under which such advertising is permitted. These provisions apply cumulatively with the provisions regarding unfair competition of law 146/1914, based on which a competitor can initiate a court action.

#### **Can the case be handled through an accelerated procedure?**

Collective claims filed by consumer associations follow the special proceedings of voluntary jurisdiction which are faster than the ordinary proceedings.

Also, regarding both claims and collective claims, it is possible to order the enforcement of the judgement on an interim basis. In any case, it is also possible to follow the general interlocutory proceedings and to obtain an interim decision till the final decision is held by the ordinary Courts.

In that case, however, the urgency of the matter at stake must be proven.

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

In principle, the general rules of evidence provisioned in the Greek Judicial Code apply. It should be noted that a witness is admissible as a means of evidence if the object of the sale contract is up to the amount of 30,000.00 € (however, please note that there are exceptions to the above rule).

Some, more specific evidentiary requirements apply as analysed below:

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 537, par. 2 of the Civil Code, if the defect or the lack of an agreed property is detected within six months from the delivery of the good it shall be presumed that this was present at the time of delivery (unless this presumption is incompatible with the nature of the good sold or with the nature of the defect or of the lack of the agreed property).

Also, at the point of the conclusion of the sale contract, the supplier must inform the consumer of the possible life span of the product. The proof for (providing) this notification is borne by the supplier (art. 5 par. 3, Law no 2251/1994).

As far as compliance with information requirements for distance and off-premises contracts is concerned, the supplier has the burden of proof. The consumer on the other hand has the burden of proof of exercising the right of withdrawal from distance and off-premises contracts.

With respect to unfair commercial practices, according to article 9 i) paragraph 3 of the Law no 2251/1994: "The supplier accused of infringing the provisions of this part shall be obliged to provide the court with evidence on the accuracy of the actual claims made concerning the commercial practice, where this is considered necessary by the court in light of the circumstances of the specific case having regard for the legitimate interests of all parties. If this evidence is not submitted or is found inadequate, the claims or the plaintiff consumer/s shall be deemed to be true."

The above requirements apply by analogy to comparative and misleading advertising as well, pursuant to article 9 paragraph 8 of Law no 2251/1994.

With regards to unfair contract terms, according to art. 2 paragraph 10 of Law no 2251/1994, the burden of proof that a contract term has been individually negotiated is the responsibility of the supplier.

Collective claims follow the procedure of voluntary jurisdiction, where 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 inquisitorial system to order the submission of documents from a public service, to send a query to a public service or to order the examination of a particular witness. Restrictions regarding witness evidence do not apply.

The courts or administrative authorities accept the list which is published in the Official Journal of the European Union that include the qualified entities that may file a collective claim or a complaint, as a proof of the legal capacity of the qualified entity (art. 10 paragraph 30 indent c of Law no 2251/1994).

#### **Are there specific procedural reliefs for consumers or consumer associations?**

Collective claims which follow the procedure of voluntary jurisdiction are set on trial by law at the earliest day 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, where its general principles and contract law provisions apply [for instance, demand full restitution of damages or repudiate the contract (382CC)].

In general, 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 no 2251/1994. In addition, it is possible to seek for a pecuniary compensation due to moral (non-pecuniary) damages. Also, it is possible to request the issuance of interim measures which aim to secure the claims of the consumers until the issuance of a final court decision. It is further possible to achieve the seizure of the products especially in cases of products that are dangerous for public safety and public health. Moreover, it is possible to ask the recognition of the right to rectify the loss incurred by consumers due to the illegal behaviour.

In addition to the above civil sanctions and remedies, regarding the provisions of Directive 2005/29/EC, it is possible, to file a claim before the Civil Courts in order to stop an unfair commercial practice and to impede it from being repeated in the future (according to article 9i of Law no 2251/1994). Moreover, it is

possible to ask compensation for any loss incurred due to that practice. These judicial means may be exercised, individually or jointly, against one or more suppliers of the same financial sector or against the owner of a code, if the latter promotes a code that encourages non-compliance with the stipulations of Law no 2251/1994. What's more, it is possible to ask for the publication of the judgement or the publication of a relevant recovery statement of the offender.

The above apply by analogy to comparative and misleading advertising too, pursuant to article 9 paragraph 8 of Law no 2251/1994.

In the case of off-premises contracts (when the price paid by the consumer exceeds the amount of 30,00 euros) and of distance contracts, in case the supplier fails to comply with the information or formal requirements set out in Law no 2251/1994, the contract is void in favour of the consumer.

Regarding package travel, in case the organiser cancels the package travel before the agreed date of departure, the consumer is entitled under certain conditions, if appropriate, to be compensated by either the organiser or the retailer, for non-performance of the contract. In addition, where, after departure, a significant proportion of the services contracted for is not provided, the organiser must make suitable alternative arrangements, at no extra cost to the consumer, for the continuation of the package, and where appropriate compensate the consumer. Also, as for damages arising from the non-performance or improper performance of the services of the package travel, the compensation is limited in accordance with the provisions on liability of the international conventions, which bind the country and govern such services, while reasonable limitation of the compensation may be provided for in the contract for damages other than personal injury resulting from the non- performance or improper performance of the services of the package travel.

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

There are no direct provisions for criminal sanctions in Law no 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– i.e., insurance companies, food companies, medical companies etc.). Also, criminal sanctions can be imposed following the provisions of the Greek Penal Code and l. 4177/2013 (art. 19), as l. 2251/1994 (art. 13a) 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 enacted by the General Directorate of Consumer Protection and Market Surveillance of the Secretariat General for Commerce and Consumer Protection of the Ministry of Development and Competitiveness. As far as the administrative sanctions are concerned, the law stipulates that (in articles 13a paragraphs 2-3 of Law no 2251/1994: "Without prejudice to the provisions of the Penal Code, to the Rules Regulating the Purchase of Products and the Provision of Services and to the rules set forth in other special laws, against those suppliers that infringe the provisions of the present law, following a decision of the Minister of Development and Competitiveness, that is initiated after a complaint or at its own motion, one or more of the following penalties are imposed:

- a) A recommendation to comply within a specific deadline and to stop the infringement and omission in the future.
- b) A fine ranging from one thousand five hundred (1.500) to one million (1.000.000) euros. In case that more than three decisions imposing a fine are issued for the same supplier, the maximum limit shall be doubled.
- c) The temporary suspension of the business operation or of its part thereof for a period ranging from three months to one year in case that more than three decisions imposing a fine to the same supplier are issued.

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 in accordance with paragraph 1: a) A recommendation for compliance within a specific deadline, under threat of fine, b) imposition of a fine ranging from €500 to €5 000, c) imposition of a fine ranging from €5 000 to €50 000 in case of recalcitrance.

The administrative enforcement of the Rules on the Movement and Trade of Products and the Provision of Services (including the provisions implementing Directive 98/6/EC on price indication) is enacted by the Directorate of Institutional Regulations and Market Surveillance of Products and Services of the General Directorate of Consumer Protection and Market Surveillance. With respect to sanctions imposed for violating this legal framework, the following apply:

1) In general, regarding violations of the indications a sign should bear (art. 1 paragraph 5 of M.D. no. A2-718/2014):

- a) non-existence of a sign with the indications required, an administrative fine of €1.000 is imposed per product code,
- b) incomplete compliance regarding a sign with the indications required, an administrative fine of €500 is imposed per product code,
- c) non-display of indications in Greek language, an administrative fine of €500 is imposed per product code,
- d) non-display of indications with letters of equal size that are visible and legible and of the final selling price in bold, an administrative fine of €500 is imposed per product code,
- e) display of inaccurate or misleading indications, an administrative fine of €2000 is imposed per product code,

2) Regarding the indications on a sign for products released for consumption either in-store or by street vendors (art. 2 paragraph 14 of M.D. no. A2-718 /2014):

- a) a fine of €500 per product code due to incomplete indications on the sign,
- b) a fine of €2000 per product code due to inaccurate or misleading indications on a sign, c) a fine of €1000 per product code, in case there are different selling prices, d) a fine of €1000 for non-provision of an electronic price checker.

3) Regarding indication of price per unit of measurement (art. 6 paragraph 5 of M.D. no. A2-718/2014): a fine of €500 per product code.

4) For foodstuffs that are not pre-packed and which are offered on the retail site for direct sale to the consumer or to mass catering units (art. 11 paragraph 2 of M.D. no. A2- 718/2014): a) a fine of €1000 per product code due to non- display of the minimum indications required, b) a fine of €500 per product code due to incomplete display of the minimum indications required, c) a fine of €2000 per product code due to inaccurate or misleading display of the minimum indications required.

5) Regarding the obligation to post a price list of undertakings providing services (art. 85 paragraph 4 of M.D. no. A2-718/2014): a fine of €1.000 for lacking a price list and a fine of €500 for exceeding the price.

The above fines are reduced by half if the debtor makes a payment of the fine within thirty days from the date of notification of the relevant decision imposing the fine and in any event before exercising any remedies against the aforementioned decision.

It should be noted that in case of repeated infringements due to the same violation within 3 years, the fine imposed is doubled, while where offences are many and repeated within the same period, the fine imposed is tripled (art. 22 paragraph 1 of Law no. 4177/2013 on Rules regulating the sale of goods and the provision of services, and other provisions).

Moreover, in case that the fines imposed against the same infringer exceed in total the amount of €1000000 within 5 years, the Minister of Development and Competitiveness may impose temporary withdrawal of authorisation or temporary ban on engaging in an activity for a period of thirty days. If during the same period of five years, imposed total fines are more than five million euros, the Minister may impose definitive withdrawal, partially or in full, of the authorisation or permanent ban on engaging in an activity (art. 23 paragraph 6 of Law no. 4177/2013 on Rules regulating the sale of goods and the provision of services, and other provisions).

In addition, in case of discounts and offers which are inaccurate or misleading regarding the indicated prices, this will incur a fine equal to 1% of the annual turnover and no less than ten thousand euros, depending on the severity and frequency of infringement. If a fine is imposed for the second time for the same offense within five years, the penalty is increased to 3% of the annual turnover (art. 21 paragraphs 2 & 3 of Law no. 4177/2013 on Rules regulating the sale of goods and the provision of services, and other provisions).

Regarding infringements with respect to legislation on package travel, the following apply (art. 8 of PD 339/1996):

- a) in case the organiser/retailer is a tourist office, the provisions of articles 11 and 12 of law 393/1976 apply,
- b) in case of chartering brokers, the provisions of paragraph 11 of Joint Decision of the Ministers of the Presidency and Commercial Shipping No. 53153, special edition 129 of 2 July 1977 apply,
- c) in case of hotels, the provisions of article 4 of law 2160/93 apply and
- d) in case of organiser/retailer who provide services of passenger sea transport, the competent port authorities impose a fine, provided for in article 157 paragraph 1 indent a) of legislative decree no. 187/73. The Greek Tourism Organisation is the competent authority to enforce the aforementioned legislation regarding tourist offices, shipbroker offices and tourist accommodation, while the Ministry of Shipping and Island Policy is the competent authority regarding sea transport.

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

In case that a collective 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. In case 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 consequence is to render the specific clause void to the benefit of the consumer. Nonetheless, the Minister of Development may issue a decision published in the Government Gazette setting out the terms and conditions for adapting the business activity of suppliers to the *res judicata* of final court rulings in consumer or consumer association actions where the consequences of that *res judicata* are of wider public interest for the problem-free operation of the market and consumer protection.

Especially under a collective claim, the court may recognise to consumer associations: a) that a producer abstains from an unlawful behaviour even before it occurs, b) the recall, seizure (as injunctive measures) or even destruction of the defective products, c) moral damages and d) that the court recognises consumers' right to restore the damage caused to them by the producer's unlawful behaviour (Art. 10, para 16 of L.2251/1994).

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

According to article 9i a) of Law no 2251/1994 and to article 10 paragraph 16 of Law no 2251/1994, it is possible to get redress either through a single consumer action or through a collective claim filed by a consumer association. In the first case, the redress will be awarded to the consumer personally, whereas in the second case, 20% from the amount awarded is allocated to the Secretariat General for Consumers, within one month from payment, in order to promote the policies for the protection of the consumer and to educate the employees of the Secretariat General for Consumers (article 10 par. 22 of the Law no 2251/1994).

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

Yes, it is possible that the Court orders the publication of the decision (in whole or in part). As far as the administrative enforcement is concerned, the Minister of Development may, taking into account the nature and gravity of the infringement, and the consequences on consumers in general, publish in the press or other reasonable means, the sanctions imposed on a supplier by the Secretariat General for Consumers.

In addition, regarding sanctions imposed due to infringement of the Rules on the Movement and Trade of Products and the Provision of Services (including the provisions implementing Directive 98/6/EC on price indication), a summary of the fines imposed are compulsorily posted on the website of the Secretariat General for Consumers within three business days from the date of decision which imposes the fines.

### **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. One of the most characteristic examples is 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 the citizens-consumers. Two Committees are responsible for the enforcement of this Code: the primary one and the secondary one. Another characteristic example is 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). This Code that was adopted in 2008 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). There is also the Code of Ethics related to the advertisement of banking and financial services, signed by the major Greek Bank that has been ratified by the Hellenic Banking Association who is also responsible for its enforcement. In addition, the Consumer Code of Conduct for Electronic Commerce (Ministerial Decision oik. 31619/15.3.2017), sets out the general principles and defines minimum standards of professional ethics and of ethical conduct to be applied towards the consumer by businesses. In particular, the Code relates to business self-regulatory rules involved in e-commerce which aims at consumers, while its scope applies to any company that operates in the field of e-business. Moreover, the Consumer Code of Ethics (Presidential Decree 10/2017) is another example of self-regulatory rules. The Code adopted 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.

With Law 3297/2004, Hellenic Consumers Ombudsman was set as an Independent Administrative Body who acts among others as an alternative dispute resolution body. A report may be filed in person at its premises, by fax (210- 6460414), by post (address: 144 Alexandras Avenue, 11471, Athens), by email at [grammateia@synigoroskatanaloti.gr](mailto:grammateia@synigoroskatanaloti.gr), by using the form available at [http://www.synigoroskatanaloti.gr/stk\\_ReportSample.html](http://www.synigoroskatanaloti.gr/stk_ReportSample.html) or any other suitable form, which will include all necessary information (contact details, clear description of the dispute and of the damage incurred, request from the Ombudsman to

mediate). Also, the form should be signed and a copy of the identity of the complainant should be attached. 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 of Law no 2251/1994 introduces the Amicable Settlement Committees that function in each Prefecture in Greece under the auspices of the Ombudsman of the Consumer. Their role is to enable the amicable settlement of disputes between consumers and suppliers. However, the committee findings do not have the effect of a court ruling nor are they enforceable.

In addition, the Bank Ombudsman was also established, who deals among other things with the unfair trade practices of Banks towards consumers.

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 9-1-2016, ECC-Greece will be 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, there are several registered alternative dispute resolution (ADR) entities, following the application of 2013 EU legislation in Greece. Apart from the Consumer Ombudsman (the key ADR authority for consumers) there are private organisations acting in the field, namely a) ADR Point IKE, b) European Institute for Conflict Resolution and c) StartADR.

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).

As for electronic means for the dispute resolution, also available in Greece (as across all European Union), is the Online Dispute Resolution (ODR) platform, accessible through the following link: <https://ec.europa.eu/consumers/odr/main/?event=main.home2.show>

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