

## The schemes for institutional consumer protection in the European Union

**Abstract:** The article is based on the analysis of the legal acts, literature concerning the subject and information found in the official website of the institution of protection. The work elaborates the scheme of institutional consumer protection developed in the European Union. Selected aspects of institutional and legal consumer protection matters were discussed. The institutions directly concerned with the creation of the consumer protection standards have been pointed out. Moreover, some of the institutional schemes of consumer protection in the selected States in EU were named. The final part of the article is the conclusion that elaborates the matter of importance of institutional consumer protection in the European Union.

**Key words:** European Union, consumer, consumer protection, consumer institutions, consumer organizations

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### Introduction

According to article 169 of the Treaty on the Functioning of the European Union 2016 one of the tasks of the European Union is to provide high level protection to the consumer in relation to health, personal security and self-organization. The Union adheres to this task by creating consumer legislation in the form of derivative rights acts with a binding nature (decrees, directives) and legal acts with no binding nature in the form of consumer strategies and the consumer Policy agenda (resolutions, notices, recommendations and opinions). The Member States have to respect and adjust internal consumer legislation to Union norms. It is allowed for the Member States to set the national legal regulations that provide the consumer with a high level of protection, however with respect to the freedoms and the principle of proportionality guaranteed by the Treaty (Micklitz, Weatherill, 1993; Sefton-Green, 2011). Moreover, the European Union provides the Member States with the freedom of systems and models within the field of consumer protection. The freedom is based on a variety of ways of consumer protection, governance mechanisms or specific legal systems. The aim of this article is to classify and analyse the institutions dealing with consumer protection among the Member States of the European Union. The case of the bodies responsible for redress shall be elaborated as a separate issue of matter.

### The scheme of institutional consumer protection at the Union level

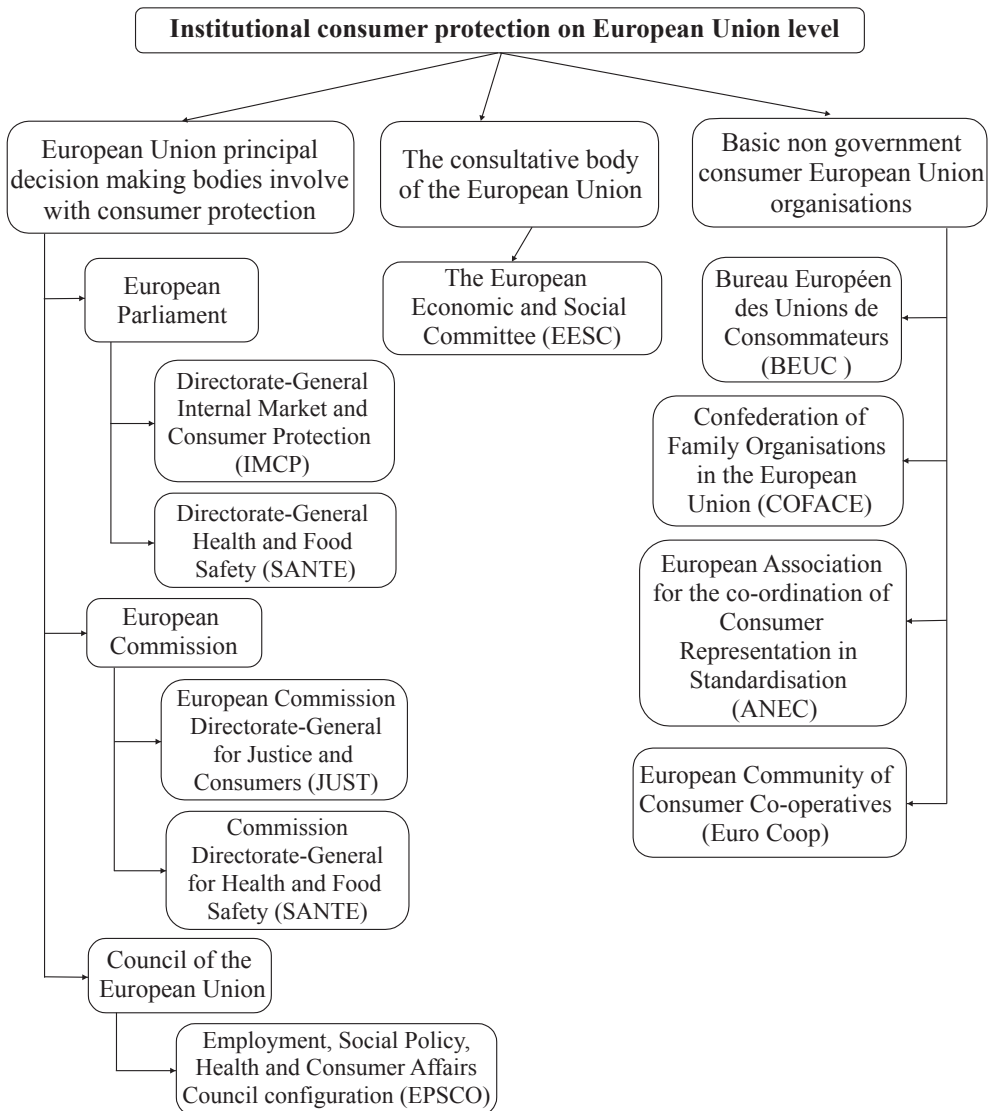
When analysing the institutional consumer protection scheme in the European Union it is necessary to point out to its two separate frameworks. The first one deals with the principal decision making bodies of the European Union involved with consumer pro-

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tection. Those bodies create consumer legal standards, agendas and the strategies that shape consumer policy in the EU. The other framework brings together scientific committees and international and European consumer non-government organisations that serve to protect the interests of the consumers in the European Union. Among the head institutions pointed out in the title III article 13 Consolidated versions of the Treaty on European Union, the European Parliament, the European Commission and the Council of the European Union are directly connected with the legal consumer protection (Consolidated versions of the Treaty on European Union 2012).

**Table 1. Institutional consumer protection on European Union level**



Source: The Author’s own calculations.

The European Parliament (EP) together with the European Council shall implement the legislative function with regard to consumer legislation. There are committees that work within the EP. The Committee on the Internal Market and Consumer Protection – IMCP is highly important for the matter of consumer protection. It is a Standing Committee established by the Parliament with regard to the propositions of the Conference of the Presidents during the first monthly session of the newly chosen Parliament and then re-selected after two and the half years. The Committee on the Internal Market and Consumer Protection has the right to coordinate the national legislative systems within the field of the internal market and the Customs Union. The coordination especially concerns the free movement of goods together with the regulation of technical standards, the right of establishment, freedom of services with the exception of the financial and postal sectors. The role of the Committee is to protect the consumer in terms of the identification of barriers and market regulations including the digital market. Moreover, it supports and protects the commercial consumer interests excluding the areas of public health and food safety. The Committee has the authorities within the field of politics and legislation concerning the harmonisation of the market and consumer rights execution (Rules of Procedure of the European Parliament 2016).

The European Commission, as another major institution dealing with the consumer protection within the Union, offers new consumer regulations. The internal department of the Commission – Directorates General – include European Commission Directorate-General for Justice and Consumers (JUST) and Commission Directorate-General for Health and Food Safety (SANTE), which support the actions of the Commission for the customer protection (Rules of Procedure of the Commission 2000).

The European Commission Directorate-General for Justice and Consumers (JUST) deals with the matters of justice, democracy, freedom, tolerance and the rule of law. Five Directorates form part of the Directorate-General, wherein one of them is responsible for the legal protection of the consumer and another Health and Food Safety (SANTE) for the consumers themselves. The Health and Food Safety Commission monitors regulations concerning the safety of food and goods, the consumer rights, and controls the implementation of consumer rights by national, regional and local authorities. What is more, the Commission listens to the ideas and opinions of the consumer and traders in the scope of trade, competitiveness and environmental protection. The Commission takes into consideration all the opinions of the parties concerned, it intervenes and acts in order to suggest relevant solutions that may include legal regulations, financial support for the projects and other effective means of support (dgs,health\_food-safety,about\_us).

The Directorate – General for Health and Food – Safety carries out four tasks from the field of the consumer protection in EU. It monitors the food-safety and consumer rights regulations previously accepted by the EU. It supervises the implementation of the consumer protection rules by the national, regional and local authorities. It consults the opinions of business operators and acts in order to normalize the legal regulations or to financially support consumer projects (<http://ec.europa.eu/dgs/>).

The consumer legislative acts are negotiated and accepted by the Council of the European Union together with the European Parliament. The Council coordinates Member States' economic policies and issues legislative acts for the Member States and their consumers. Moreover, the Council issues acts in the form of the union strategies and consumer agendas

that lack legal validity (Nugent, 2012). Employment, Social Policy, Health and Consumer Affairs Council configuration (EPSCO) shall form the part of the Council of the European Union. The role of the EPSCO Council is to ensure the high level of health protection and consumer protection by raising the employment rates and improving the work and living conditions. The EPSCO Council together with the European Parliament shall adapt union health protection regulations, the consumer protection and their economic interests (*About employment, social, health and consumer affairs policy*, 2016).

Another important committee that plays a vital role in the context of the consumer protection within the union is The European Economic and Social Committee (EESC) which performs an advisory function to the European Parliament and the European Commission in the question of consumer policy protection. The EESC can be called the bridge between the EU's decision-making institutions and EU citizens. The EESC is consulted by the European Parliament, the Council of the EU and the European Commission on a variety of subjects. It also issues opinions on its own initiative. The Treaty of Nice included a new regulation concerning article 257, stating that EESC shall consist of representatives of the various economic and social components of organized civil society including consumers (Treaty of Nice, 2001).

The second category of the institutions that influence the consumer policy and protection is represented by the scientific committees and independent consumer non-governmental associations and shall be called the dedicated voice of the consumer at national and Community level. Their educational, informational, and advisory form of activity that include a number of campaigns and initiatives, imply the necessity to set the relevant legal solutions. The biggest and the most influential non-governmental consumer organizations that work within the Union and cooperate with the decision making bodies include the Bureau Européen des Unions de Consommateurs (BEUC), The Confederation of Family Organizations (COFACE), The European Association for the co-ordination of Consumer Representation in Standardisation (ANEC) and The European Community of Consumer Co-operatives (Euro Coop).

The Consumers' Consultative Council (CCC) was transformed into The Consumer Committee in 1995 and it performs the function of a kind of forum for the exchange of consumer opinions concerning the issues of information and consumer protection (Maier, 1993). The CCC was active in forwarding optional proposals for action to the Commission. The Consumer Committee, appointed by the European Commission, consisting of 20 members. The new Committee, while only an advisory body, is consulted by the Commission on proposed initiatives that may have a bearing on consumer interests (Urwin, 1999).

### **The schemes of institutional consumer protection within the Member States of European Union**

When analyzing the schemes of institutional consumer protection in the Member States of EU it is vital to say the country that carries out the consumer policies cooperates with specialized institutions like the parliament, judicial system, appropriate legal measures and specific institutional structure.

In Europe there are four models of institutional customer protection: the ombudsman scheme, administrative scheme, judicial scheme and German scheme. The prevailing role of consumer institutions of judicial, administrative or non-governmental nature is inevitable in the process of country categorization within the framework of consumer protection policy (*System ochrony konsumentów w krajach Unii Europejskiej*, 1999).

The ombudsman scheme is mostly popular in the Nordic countries. The one-man Office of Ombudsman is playing the most important role in customer protection. It is independent of national administrations, appointed for a term set by the parliament or nominated by the President and has sovereign functions (Żabczyński, 2006). For example in Finland, the Consumer Ombudsman is appointed by the President of Republic for the term of 5 years. He performs a function of an expert and has to protect the consumers, improve the legal situation, ensure that the law and legislations on market protection are respected, and negotiate the terms of agreements justified by the consumer. In Sweden, the Consumer Ombudsman has to coordinate the process of putting the legislation on consumers into practice. The Consumer Ombudsman together with "The Consumer Agency" makes sure *that consumer rights are respected* in trade relations. In Denmark, the Consumer Ombudsman is a part of a National "Agency for Consumers" (Forbrugerstyrelsen). His job is to supervise the respect for the rights of consumers and to influence the traders by setting the regulations for the marketing practices in the variety of aspects important for the consumer (Consumer protection system in the European Union).

An administrative scheme of institutional customer protection can be observed in France. The responsibility for consumer policy belongs to one administrative authority which in that case is the "Direction générale de la concurrence, de la consommation et de la répression des fraudes" – DGCCRF (the Director-General for Competition, Customer Protection and for Fight against Fraud). The major task of the Director-General is to search for cases of consumer rights and violation of competition rules. Moreover, it is one of the bodies who write down the legislations, implement them and then supervise if they are properly respected. Regional departments help the DGCCRF in the completion of its duties (*Présentation of the DGCCRF*, 2009).

The judicial scheme prevails in Anglo-Saxon countries, for example in Great Britain. The scheme assumes presence of public organizations that deal with consumer protection; however they are highly influenced by the court activities. The main task of the organizations is to resolve consumer issues. They are very fast and effective what guarantees that the customer will receive compensation. In May 2010 there were 95 independent redress systems in 35 sectors in Great Britain (*Mapping UK consumer redress. A summary guide to dispute resolution systems*, 2010).

Within the German scheme the policy was carried out by strong consumer organizations. They are financially supported by the government, which coordinates and controls their work on the consumer protection. In Germany one of such organizations is Arbeitsgemeinschaft der Verbraucherverbände (AgV) that links about 40 German consumer institutions. AgV protects the consumer rights and promotes consumer information (The System of consumer protection in the European Union, 2000). When in 2007 The Legal Service Act was empowered, legal advice out of court began to be distinguished from the representation before court. Such activity strengthened the position of German consumer organizations. The organizations could now provide legal advisory services with no limi-

tations and represent the consumer before the local court in cases of dispute, however the value of the subject matter could not exceed €5,000 (Hodges, Benöhr, Creutzfeldt-Banda, 2012).

### Conclusions

The analysis of the institutional scheme of consumer protection in European Union is two-dimensional. The first category includes transnational institutions and the second incorporates the institutions that function in the States of the EU, however their work is dependent on historical, legal and cultural conditions and the various traditions regarding the consumer protection. Within the Union there are institutions that contribute to the creation of consumer legislation, shape the system of consumer protection and cooperate with advisory bodies. An important role in consumer protection is played by non-governmental consumer organizations that inform and educate about general consumer issues in the EU. In the scope of contemporary globalization issues it is important to recall the question of trans-border and inter-institutional cooperation in the concern of goods safety and shopping and complaint standards.

It is obligatory for the Member States to accept the legislation. Within the Union there are some minimum standards and directions for the consumer policy development that take forms of messages, opinions and resolutions. Every consumer policy created within the Union incorporates primary strategic objectives concerning the improvement of consumer protection. When the Member States create national governmental consumer policy they have to consider the union requirements and the national needs.

To conclude, it can be stated that that the scheme of customer protection within the internal market has a positive influence on the consumers and their rights in the Member States, improves the functioning of the market itself and increases the competition level. However, it is important to say that if there is no cooperation between institutional, legislative and non-governmental sectors, the legal standards may not meet the real needs of the consumer.

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## Modele instytucjonalnej ochrony konsumentów w Unii Europejskiej

### Summary

Artykuł oparty na analizie, aktów prawnych, literatury przedmiotu oraz informacji znajdujących się na oficjalnych stronach internetowych instytucji ochrony, ma na celu przedstawienie ukształtowanych w Unii Europejskiej modeli instytucjonalnej ochrony konsumentów. W publikacji omówione zostały wybrane aspekty instytucjonalno-prawnej ochrony konsumentów na szczeblu ponadnarodowym – unijnym. W dalszej części artykułu wskazano na instytucje unijne, bezpośrednio związane z tworzeniem standardów prawnej ochrony konsumentów. Nazwane zostały ponadto instytucjonalne modele ochrony konsumentów w wybranych państwach Unii Europejskiej. Ostatnia część artykułu pełni rolę konkluzji i zawiera rozważania na temat istoty oraz znaczenia instytucjonalnej ochrony konsumentów we Wspólnocie.

**Słowa kluczowe:** konsument, instytucje ochrony konsumentów, ochrona konsumentów, organizacje konsumenckie, Unia Europejska

