

Judicial Training Project  
Fundamental Rights In Courts and Regulation (FRICoRe)

*«The Right to an Effective Remedy in Collective Redress Proceedings: a Cross-Sectoral Training for European Judges and Trainers»*

**The consumer protection law and the legal remedies in Greece**

**Eleni Ververopoulou**  
judge, eleniver@otenet.gr

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## Collective action of the consumer associations

Acting repressively for the illegal suppliers

Acting preventively for the other suppliers

- ▶ A consumer association with at least 500 members and registered as a consumer association one year ago may bring any action for the protection of the general interests of consumers
- ▶ Article 10 § 16 of Law 2251/1994 (Consumer Protection Law) provides for the right of the union, when a claim for the exercise of a collective action can be established, to request the provision of temporary judicial protection.



The collective action of consumer associations have as a request in particular (article 10 par. 16 L. 2251/1994):

- a) *omission of the illegal conduct of a supplier, even before it occurs (action for an injunction)*
- b) *award of pecuniary compensation for non-material damage (preventive – validating collective action)*
- c) *recognition of the right to compensation for the damage suffered by consumers, as a result of the illegal action, with the aim to protect consumers as a whole and anonymous*
- d) *injunction to safeguard the claims of the consumer public*



## Bindingness of the decision

- collective action of consumer associations
- If the class action is finally upheld, the decision produces de facto favorable effects 'erga omnes' (presumption of abuse of the term assessed)
- especially for the declaratory action for damages
- the decision produces the precedent- res judicata of the judgement (extends the validity of the final decision, in the context of the individual proceedings of the individual consumer)



## **Order for payment (article 10 p.20 L. 2251/1994)** **conditions for issuing an order for payment**

- *Irrevocable decision on the collective action that proves the illegality and the culprit of the conduct shown by the supplier*
- *written notification to the supplier with the claim of the consumer*
- *application (at least 30 days later) to the court by the individual consumer for an order for payment*
- *the written pre-proof procedure, where the judge decides according to the documents provided by the creditor*
- *delivering order for payment by the court*



## Advantages

- legal remedy for consumers
- quick protection to consumers
- an enforceable title within a very short time
- no high court costs

## Desadvantages

- the amount of the claim is unclear
- not in line with the articles of Greek law (Code of Civil Procedure 623 and sub.)
- The amount must be proved by a public or private document
- the absence of a hearing of the debtor
- no provision for interrupting or suspending the limitation period

## ECJ ruling on the principle of effective judicial protection as a general principle

- ❖ direct effect: requires legal remedies before the national courts for the enforcement of the rights granted
- ❖ recognition of procedural autonomy, as well as a minimum level of protection, in order to provide for an harmonization of internal remedies and procedures
  - ✓ *principles of equivalence and effectiveness (Rewe I case (ECJ, judgment of 16 December 1976, Case C-33/76)*
- ❖ 'it is for the courts of the Member States to ensure the judicial protection of the rights from EU law'
  - ✓ *principle of sincere cooperation (article 4(3) TEU, decision of 8th November 2016, Lesoochránárske zoskupenie VLK, C-243/15)*
- ❖ according to the procedural rules, Member States must guarantee compliance with the right to an effective remedy in court'
  - ✓ *(decision of 27<sup>th</sup> September 2017, Puškár C-73/16 677)*

## The following questions arise:

- can it be considered as an effective protection of the individual affected by an illegal practice, on the basis of collective redress, when the procedural conditions laid down, render the remedy inapplicable, due to the failure to have recourse to the order for payment?
- is the recourse to an individual action for damages considered to be an adequate remedy, equal to the order for payment?
- Do national courts have the possibility to interpret differently the procedural requirements of an application for an order for payment, based on a decision in representative actions of associations, so that they are compatible with effective judicial protection?





## Considerations- concerns

- Reluctance of the advocate to claim for an order for payment
- No delivering such an order whereas there is in fact no liquidated claim
- no application of the article 47 of the Charter in Greece, in the sense of introducing new remedies, due to the principle of the procedural autonomy of the member states

## Alternative - solutions

- objection against the order for payment of the supplier
- judicial protection within the provision of the restoration of things to the previous situation (article 152 Code of Civil Procedure: 'Returning things to the status quo ante') when the time limit is expired



Thank you!