

CONSUMER PROTECTION LEGISLATION IN KOSOVO, ALBANIA AND MONTENEGRO

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Abstract: The paper focuses on the presentation and analysis of current consumer protection legislation in Kosovo, Albania and Montenegro. The years 90/2000 in these countries are considered as periods when the work has started in terms of protection of consumer rights, while in general the years 1960/70 are considered the beginnings of consumer law.

From the descriptive and comparative analysis we come to the conclusion that all the laws issued for the protection of consumer rights are based on EU directives. Also, different strategies have been created by the three countries that aim to protect consumers. There are agencies which, as an objective, in addition to monitoring, also have consumer protection. It is worth noting that there is an instability regarding the law on consumer protection, especially in Kosovo, because several times changes have been made or new laws have been issued.

Keywords: Law, consumers, consumer protection, legal system

1. INTRODUCTION

In many countries, government measures to protect consumers have long since begun, so as not to allow manufacturers to have a dominant position in the market, the key focus is to protect a consumer from defective goods without lacking essential information, about manufacturers and goods and equal market conditions for consumers (Zharkenova & Kulmakhanova, 2015). Consumer rights are among the basic human civil rights along with the right to life, the right to a healthy environment, the right to freedom (Zharkenova & Kulmakhanova, 2015). Consumer protection policy has been systematically developed over the last 40 years. Consumer protection law is one of the most important elements of consumer protection policy (Baretić & Nikšić, n.d.)

1.1. Research goals

This paper focuses on the elaboration of the law on consumer protection, both theoretically and practically, analyzing the legal system for Kosovo, Albania and Montenegro as these countries are more or less at a level of same development.

1.1.1. The main objectives of the paper are:

1. Theoretical presentation of the law on consumer protection;
2. Analysis of the legal system in Kosovo, Albania and Montenegro;
3. Comparison of the legal system between the three states;

1.1.2. Research questions

1. Has the law on consumer protection started long ago?
2. Do countries such as Kosovo, Albania and Montenegro have laws and strategies for consumer protection?
3. What are the main objectives of the consumer protection program?

2. METHODOLOGY

The decision to select the type of research methods is influenced by the objectives and research questions of the paper. The methodology relates to the philosophy of this scientific research which is related to the objectives of the study. Based on the type and objectives of this research, the type of data that has been collected is mainly determined. The paper is focused on secondary data. The scientific method that has been selected as the most appropriate method is the description method and the comparison method.

3. LITERATURE REVIEW

Protection of consumer rights in modern times dates from 1962. On March 15, 1962, US President Kennedy delivered a message to Congress in which he proclaimed: (i) the right to vote, (ii) the right to information, (iii) the right to security, and (iv) the right to be heard (UNCTAD, 2017).

According to McMillan Dictionary, 1985 (based on Debnath & Mazumdar, 2015): *"Consumerism is concerned with consumer protection, from all organizations with which it cooperates. It includes active groups of government, business, independent organizations and concerned consumers that are oriented to protect consumer rights"*.

Consumer protection is a set of rules, and the legal framework aims to ensure consumer rights. The main principles of consumer protection were initially maintained at the international level in the UN Guidelines for Consumer Protection (UNGCP) (Debnath & Mazumdar, 2015).

According to Jain, (n.d.) consumerism is : "*Consumerism can be defined as a social force, within the designed environment, to help and protect consumers by exerting legal, moral and economic pressure on business and government*".

In the context of human rights, consumer rights are also an integral part of these rights. To protect the interest of consumers from business monopolies and misuse has increased the importance of these rights (Huq et al., 2017). It is worth noting that based on a study conducted by UKDTI in 2013 (based on Delgadillo, 2013), three models are presented where countries can be grouped according to the consumer protection regime. Model 1 is the consensual and intervening model, model 2 is mixed while the third model is non-intervening.

4. LEGAL SYSTEM IN KOSOVO, ALBANIA AND MONTENEGRO

4.1. Law on Consumer Protection in Kosovo

Kosovo as a country in transition, until today there has been constant change, in laws or their fulfillment. In 2004 it has begun Law no. 2004/17 on Consumer Protection under the UNMIK Interim Government⁸⁹. This law was repealed in 2008 and amended or supplemented by Law no. 03 / L-131 year 2009 pursuant to Article 65 (1) as the law amending and supplementing Law no. 2004/17 "on consumer protection". In 2012 it published Law no. 04 / L-121 on consumer protection now with and this repealed law⁹⁰. Whereas in 2018, according to article 65 (1) of the Republic of Kosovo, has been approved Law no. 06 / L-034 on consumer protection and complies with EU directives⁹¹.

In 2012, the Ministry of Trade and Industry of Kosovo established the Consumer Protection Department as a separate unit. The Consumer Protection Department in Kosovo has joined several other responsible institutions that assist it in this regard⁹².

Within the framework of the Minister of Trade and Industry of Kosovo, the consumer protection program 2016-2020 has been created. In the following we will present some of the main objectives of this program such as:

1. Further harmonization of legislation regarding:

- Proposing legal measures to ensure a high degree of protection of consumer economic interests, safety of life, health and consumer rights;
- Identifying the lack of legislation in specific areas;
- Harmonization of legal regulations with EU legislation ("Aquis").

2. Strengthening and further developing administrative skills:

- Growing and training administrative staff, who will be responsible for policy making and implementation, education, information and consumer awareness

3. Consumer information and education

- Providing information and public awareness on consumer rights in Kosovo;
- Promotional activities at all levels, including the media;
- Awareness of consumers about their role in the market and their involvement in institutional activities and consumer associations;
- Supporting the establishment and functioning of consumer protection associations and counseling, consumer awareness and education;
- Implementation of curricula related to consumer protection in preschool, primary, secondary and higher education⁹³.

4.2. Law on Consumer Protection in Albania

The 1990s are considered the beginning of consumer protection in Albania. In this year, the first consumer protection association was established and many other associations have functioned as single bodies, in this respect, until the competent body has been established by law. In 2003, Law 9135/03 on consumer protection was created, while in 2008 this law was amended by Law 9902/08 on consumer protection. These laws are also based on EU derivatives (Sinanaj, 2017). In the law no. 9902/08, some changes were made in 2018 (Law, No. 71/2018)⁹⁴.

⁸⁹https://www.auv-ks.net/repository/docs/L_2004_17_al.pdf

⁹⁰<https://gzk.rks-gov.net/ActDetail.aspx?ActID=16551>

⁹¹<https://gzk.rks-gov.net/ActDetail.aspx?ActID=2853>

⁹²<https://konsumatori.rks-gov.net/>

⁹³http://www.kryeministriks.net/repository/docs/PROGRAMI_PER_MBROJTJEN_E_KONSUMATORIT_2016-2020.pdf
<https://konsumatori.rks-gov.net/CMS/Page/Get/programi-info>

⁹⁴<http://www.parlament.al/Files/Akte/20181116101703ligj%20nr%20%2071%20dt%20%20%2018%2010%202018.pdf>

In Albania, there is also the Cross-Sectoral Strategy for Consumer Protection and Market Surveillance 2007-2013, a strategy which has been compiled in accordance with the EU regulatory framework, with the EU Strategy for Consumer Protection 2007 - 2013. The strategic objectives and priorities of this strategy are: consumer empowerment, protection of economic interests of consumers, contemporary market surveillance and transparency for consumers and protection of consumers from risks and threats that they fail to choose individually⁹⁵.

In order to increase the role of the consumer in the market for the protection of their rights, the Consumer Protection and Market Surveillance Strategy 2014-2020 was established, which is a continuation of the measures foreseen in the previous Consumer Protection and Market Surveillance Strategy. (2007-2013). This strategy contains 33 strategic objectives. It is worth emphasizing that in the framework of this strategy, legal initiatives are also foreseen⁹⁶.

There is the Consumer Protection Agency (AMK), the role of this agency is not only to monitor but also to protect consumers. Some of the objectives of this agency are: continuous information of customers, cooperation with other institutional agencies, training and certification of operators, etc⁹⁷.

4.3. Law on Consumer Protection in Montenegro

In 2007, Law 01-645 / 2 on consumer protection was issued, through this law, the basic rights of consumers during the purchase of goods and services are defined, and the process of protection of the rights of consumers is also presented⁹⁸. Montenegro also has a strategic framework in the field of consumer protection. Within this is the three-year national program for Consumer Protection 2012 - 2015 (NPCP) which was adopted on October 4, 2012 and is led by the Proposal for European Regulation. It is also the consumption program 2014-2020 (Government of Montenegro, 2014).

In Montenegro, the Ministry of Finance is responsible for consumer protection, the ministry which has approved four national programs for consumer protection for the period 2008/2010, 2010/2012, 2012/2015 and the fourth program for the period 2015/2018. These programs are mainly focused on consumer protection, based on laws, as well as the creation of a unified system, also an important role is played by education and providing information about consumer protection (Centra Za Monitoring I Istrazivanje, 2017).

5. CONCLUSION

The right to consumer protection is considered a fundamental right which has existed since ancient times, but if we talk about Kosovo we can say that after 2000, it has begun to be considered in institutional terms, this issue issuing laws relevant for consumer protection, but this law over the years has had constant changes and still continues to change in this regard.

In Kosovo, there are very few people who are aware of the existence of this law, so one of the main objectives of the 2016-2020 program for consumer protection is the education and information of consumers. Also, countries such as Albania and Montenegro have a somewhat similar situation, in terms of this they have also designed programs where some of these programs are in cooperation with the European Union that as the only focus have the protection of consumer rights. These programs play an important role in initiating new legal initiatives and also in building a unified legal system.

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⁹⁵ https://shtetiweb.org/wp-content/uploads/2014/05/strategjia_per_mbrotjtjen_e_konsumatorit.pdf.

⁹⁶ <http://www.financa.gov.al/wp-content/uploads/2018/12/2018-Raporti-i-Monitorimit-te-SMTMK-Varianti-final-04.12.2018.pdf>.

⁹⁷ https://www.tirana.al/uploads/2019/5/20190514151151_22-per-rregulloren-e-agjencise.pdf

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