

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0378/2005

30.11.2005

REPORT

on the promotion and protection of consumers' interests in the new Member States
(2004/2157(INI))

Committee on the Internal Market and Consumer Protection

Rapporteur: Henrik Dam Kristensen

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	3
EXPLANATORY STATEMENT	9
PROCEDURE.....	13

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the promotion and protection of consumers' interests in the new Member States (2004/2157(INI))

The European Parliament,

- having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A6-0378/2005),
- A. whereas a high level of consumer protection and consumer confidence is a precondition for a well functioning internal market,
- B. whereas the internal market has delivered tangible benefits for consumers in the EU, through lowering prices and widening choice,
- C. whereas the EU has ten new Member States, in most of which consumer protection is a relatively new concern,
1. Notes with satisfaction that, overall, consumer protection in the ten new Member States has developed in a positive way, raising standards, although much remains to be done;
 2. Insists that the internal market will not function properly if consumers are less well protected in some Member States than they are in others; recalls therefore that a high common level of consumer protection across the Member States will promote cross-border transactions and will ensure that consumers take advantage of the internal market;
 3. Recalls also the importance of Article 153 of the Treaty, which allows Member States to maintain or introduce more stringent protective measures;
 4. Calls on the Commission to conduct a screening exercise to look in detail at the structures of consumer organisations and consumer policy in the new Member States;

Legislative framework

5. Welcomes the good record of the new Member States in terms of transposition of the *acquis communautaire*; stresses, however, that Community legislation must also be effectively applied in practice and enforced; calls on the governments of the new Member States to scrutinise all available instruments and methods in order to identify means by which consumer legislation may be effectively applied and enforced in practice;
6. Calls for the strengthening of market surveillance structures in the new Member States so that products and services circulating on their markets meet high safety standards and that any defective or dangerous products are rapidly removed from the market;
7. Points out that child consumers are often inadequately protected against products which could cause damage to their health and well being; calls on the Member States and the

Commission to focus particularly on strengthening consumer protection for children and other vulnerable groups;

8. Calls on the Commission to help improve the performance of, and coordination between, supervisory bodies in the new Member States, including cross-border mutual cooperation between them;
9. Welcomes the Commission proposal to review, modernise and simplify the existing consumer acquis, which could prove important in the process of implementing European consumer legislation and would also make it easier for consumers throughout the EU to exercise their rights more effectively, including across borders;
10. Stresses that transposition of community legislation does not automatically lead to implementation as such and that, in order for implementation to be successful, consumers need to be aware of their rights and be ready and able to act as "political consumers";
11. Welcomes the Commission proposal to develop and update the scientific knowledge base and assessment tools on consumer exposure to chemicals, including with respect to general product safety, and to contribute to the application of the REACH regulation;

Consumer culture

12. Stresses that the creation of a "consumer culture" based on a higher level of consumer awareness is essential for better enforcement and application of the existing legal framework and underlines the vital role that consumer organisations, consumer protection authorities and business organisations play in strengthening this consumer culture;
13. Is conscious of the fact that consumer awareness is significantly lower in the new Member States, where freedom of speech and freedom of association were stifled for decades; points out that if a "consumer culture" is to develop, consumers' awareness of their rights must be systematically increased and at the same time it must be made significantly easier for them to exercise those rights; calls, therefore, on the Commission to draw up a specific strategy to encourage the development of a consumer culture in the new Member States;

Consumer organisations

14. Calls on the Commission to assess the possibility of defining parameters at Community level for what is meant by a "representative consumer association or organisation", to ensure that consumers in the EU are properly and independently represented;
15. Calls on the old Member States to continue their commitment to support consumer organisations;
16. Notes that most existing consumer organisations in the new Member States work mainly with volunteers and that they often lack financial resources; calls therefore on the new Member States to ensure that consumer organisations, which are representative, are adequately financed, whilst still upholding their independence;

17. Points out that in the new Member States it is generally the case that non-governmental, non-profit-making organisations do not have the necessary own capital, that fundraising is not adequately developed and that consumers themselves are unwilling to contribute out of their own pockets to consumer organisations on account of the enduring belief that the state alone is responsible for protecting consumers;
18. Notes that the requirements fixed by the Commission for obtaining grant support are strict and difficult to meet for consumer organisations in the new Member States, given the professional background of their staff and the funding problems which often make them unable to generate the own resources necessary to make the required financial contribution; calls therefore on the Commission to examine whether these requirements could not be made more flexible, including whether the work of volunteers could be regarded as part of the financial contribution;
19. Emphasises that strong and independent consumer organisations provide the basis for an effective consumer policy; calls therefore on consumer organisations to create umbrella organisations and to cooperate with each other; calls also on the governments of the new Member States to foster the creation of fewer, yet stronger organisations through progressive and efficient financing;
20. Considers that if the quality of consumer protection is to be improved, individual consumer organisations must be strengthened financially, and objective and publicly available assessments of the quality of their performance must be produced; calls, therefore, on the Commission and the new Member States to cooperate intensively both in drawing up such financial rules and in devising measurable indicators of the quality of the results achieved by such organisations;
21. Calls on the governments of the new Member States to ensure that consumer organisations are adequately consulted in all stages of the political decision-making process and in the implementation of consumer law;
22. Calls on the new Member States and on the Commission to develop and financially support, where possible, capacity-building projects to strengthen consumer organisations in the new Member States by means of twinning projects, mentoring projects and other programmes to share knowledge and information between organisations in the new and in the old Member States;
23. Calls on the Commission to support intensive training programmes for the staff of consumer organisations to be held in the new Member States and to be conducted in those countries' official languages, the aim being to train a wider base of staff and volunteers working for such organisations and not just their senior managers, with a view to making the consumer movement more effective;

Business organisations

24. Encourages business organisations and national governments to address the problem of many businesses in the new Member States underestimating the importance and benefits of addressing consumer issues and wrongly considering consumer organisations as adversarial and the strengthening of consumer awareness as a threat to business;

25. Notes that the new Member States also have to contend with unfair practices on the part of traders from the old Member States, in which such practices are not usually permitted - for example, the restriction of users' rights in the case of goods covered by intellectual property protection, attempts to distribute untested goods from non-EU countries, and so on;
26. Encourages business organisations in the new Member States to work closely with consumer organisations and to establish voluntary standards of ethical business practices with transparent and effective enforcement procedures, consumer and business educational programmes and fair and effective alternative dispute resolution processes; calls also on the new Member States to encourage and support these initiatives;

Consumer protection authorities

27. Notes that in creating a "consumer culture", the new Member States' consumer protection authorities also have a key role to play;
28. Maintains that the lack of a well functioning administration in the field of consumer protection seen in some of the new Member States is a serious obstacle to securing a high level of consumer protection; urges the new Member States continuously to develop and strengthen their administrative systems in the consumer protection field;
29. Urges the Member States' consumer protection authorities, business organisations and consumer organisations to work in close cooperation to promote consumer protection; notes that the smooth running of the market is in the interest of all parties concerned;

Consumer information

30. Welcomes the creation of European Consumer Centres by the Commission in all the new Member States and the launch of a European Consumer Diary;
31. Recommends that consumer awareness be given a higher priority in school curricula throughout Europe;
32. Calls on the Commission to grant start-up funds, in addition to existing assistance, to those centres that provide consumers with cross-border information between old and new Member States, particularly in border regions;
33. Welcomes the fact that the Commission is carrying out awareness-raising campaigns in a number of Member States and encourages the Commission to devote more financial and human resources to this purpose;
34. Calls on the Commission, together with all relevant stakeholders, to launch a strategic information and education campaign effectively to prepare consumers for the adoption of the Euro in the new Member States; stresses that this campaign should build

on both the positive and negative experiences of the adoption of the Euro among the old Member States;

35. Recommends the publishing of test magazines by consumer organisations in the new Member States; calls on the Commission and the new Member States, at least initially, to ensure that sufficient financing and training is provided to enable the development of such publications;
36. Calls on the new Member States to strengthen the provision of information to consumers and businesses regarding their rights and the existing legal framework on consumer policy, in particular by putting in place user-friendly web portals as well as awareness-raising campaigns, surveys, conferences, and information points using national and regional networks;
37. Calls on the Commission to establish monitoring mechanisms for national consumer policies, benchmarks and recommendations in order to identify best practices, and to develop statistics, indicators, and other data of interest to consumers, including a price observatory and quality surveys;

Dispute resolution

38. Calls on the Commission and the new Member States to extend the European Consumer Centres Network (ECC-Net) by involving independent consumer organisations in order to provide consumers with information on available Alternative Dispute Resolution (ADR) schemes, as well as legal advice and practical help in pursuing complaints by this means;
39. Recommends that the new Member States widen the use of ADR mechanisms by developing state supported such mechanisms and encouraging the establishment of private complaint boards in specific sectors;
40. Suggests that the Commission undertake a comprehensive study on the existence and functioning of ADR organisations to identify the need for other initiatives and support at EU level which could supplement the ECC-Net and which could also be better targeted at the specific situation of the new Member States;
41. Encourages the establishment in all Member States of independent consumer protection agencies with full power to bring proceedings before national courts in order to protect the interests of consumers;
42. Encourages the Parliament and the Council as budgetary authority to consider devoting more financial resources to enhancing consumer protection in the new Member States, along the lines, as set out, of this resolution;
43. Stresses that the EU institutions should maintain their focus on consumer protection in the

new Member States, since there are still serious issues of concern in this regard, as raised by this resolution;

44. Suggests that the same institutions mainstream consumer issues in their legislative and non legislative work, taking special account of the specific situation of the new Member States; stresses that it is particularly important to take into account the specific situation of the new Member States in relation to consumer and health strategy;

o

o o

45. Instructs its President to forward this resolution to the Council, the Commission and the governments of the Member States.

EXPLANATORY STATEMENT

Introduction

Consumer protection and consumer policy in general are issues which have been placed high on the political agenda in the EU in these years. A consumer protection programme is on the way. It aims to mainstream the consumer issues, making sure that these are taken into consideration when dealing with all other policy areas within the competence of the EU. The extent to which national policy makers and the public are sufficiently aware of consumer issues does however vary greatly across the region. There are also big differences in consumer law and the level of integration of consumer issues into the broad legal framework of the Member States. There are thus a lot of issues to look into in relation to securing a high common level of consumer protection in the EU. This own initiative report does however take a more narrow focus on consumer protection/ consumer policy in the ten new Member States with a primary view to the existence/creation of a consumer culture.

Drawing a general picture of the state of play of consumer protection in the 10 new Member States is very difficult. First of all, there is a lack of data and nobody has a complete overview of the situation in the new Member States in the field of consumer protection. Furthermore one has to be aware of the fact that these countries are very different indeed. The organisational structure in the field of consumer protection as well as the traditions in this area vary greatly across all of Europe - not least in the new Member States. It is, however, possible to point to some areas in which one can identify some more general tendencies and some common challenges with regard to the protection of consumers within the ten new Member States.

First of all, it is important to stress that the overall impression of consumer protection in the ten new Member States is basically positive. Consumer organisations exist everywhere. It seems that these organisations are trying to raise awareness of consumer issues amongst the population and the politicians. There are, however, still some very important issues to address and it seems clear that at least some of the ten new Members States do not put consumer issues as high on the agenda as is necessary if the Internal Market is to function properly both for consumers and for businesses.

Legal infrastructure

The general picture is that the *acquis communautaire* is well transposed in the new Member States at the overall level, as EU preparation in these countries before accession had already brought improvements in contract laws, statutory rights and product safety. Knowledge is however still lacking as to whether all details of consumer legislation are transposed fully into national legislation.

At the same time, the formal transposition of Community consumer law is one thing. This does not automatically lead to practical implementation as such.

Many of the stakeholders from the new Member States working with consumer issues in the

ten new Member States who have been involved in this report have expressed concern that consumers in the new Member States are not aware of their new rights and that thus very few people go to court to exercise these rights. Equally, it seems to be a more or less general tendency that politicians in the new Member States very seldom raise the question of consumer rights unless a legislative proposal directly concerns consumers.

Therefore, one might argue that the *acquis communautaire* is not really sufficiently implemented on all levels. Consequently, there is a need for strengthening consumer awareness and stimulating “political” behaviour amongst consumers – a strong consumer culture should be created.

1. Consumer culture

1.1. The political consumer

As the situation is now, most consumers in the new Member States are behaving "non-politically". Consumers are not very demanding with regard to the quality of the products and services they buy. Moreover, institutionalised practise to complain about defects or problems in relation to a product or a service does not exist or only exist to a limited extent.

Thus, on account of the different historical experience and the different prevailing socioeconomic conditions, there is currently a lower level of consumer awareness than in the old Member States. However, this does not mean that one should abstain from focusing on strengthening consumer culture and trying to identify instruments that could help improving it.

1.2. Consumer organisations

Consumer organisations in the new Member States are aware of the unique opportunities the single market could offer them. Most of the organisations are optimistic that being a Member of the EU means greater choice, higher quality and improved standards for consumers. Still, consumer organisations in the new Member States as well as the EU draw attention to the lack of support for independent consumer organisations and the minimal efforts made by governments to encourage consumer awareness.

One major problem, which many of the consumer organisations in the new Member States point to, is lack of money. Only in some countries does the ministry responsible foresee funding, and even if funding is possible, the amount is often very small.

Besides government funding, another possibility is EU funding for consumer projects through the European Commission. The conditions which are set up for getting a tender or receiving support from the European Commission are however quite strict, especially when it comes to the professional background of the staff of the organisations. In many of the new Member States mainly volunteers are working in consumer organisations; they are enthusiastic but unfortunately do not meet the European Commission's conditions.

A second problem is that the political influence of consumer organisations is often quite low. This can be explained by different factors. First of all, many organisations have difficulties

securing a sufficient amount of support from the public - both due to their weak economic situation and the relatively low awareness of consumer issues among the population. Secondly, the formal channels for NGO influence on political decision taking - for example hearings of consumer organisations in the law-making process - are often few. In some of the old Member States consumer organisations are also involved in the implementation of new consumer law.

Additionally, consumer organisations often lack qualified staff and they can therefore have major difficulties in promoting consumer issues to the public. On the EU level, there are programs training consumer organisations staff with regard to these issues. It is clear that the sharing of knowledge between the organisations in the new and the old Member States is essential. With regard to this, consumer organisations in the new as well as the old Member States and the European consumer association have recommended putting more focus on twinning projects between organisations in the new and the old Member States.

Moreover, there are great differences as to how consumer organisations in the new Member States are organised. Sometimes many small consumer organisations exist, competing against each other instead of joining their efforts. This makes it very difficult for the organisations to take a strong position in the decision-making process and in public debate.

1.3. Consumer information

Generally speaking, it is important to focus on raising consumer awareness - also through other means than strengthening consumer organisations. This could be done by strengthening information in schools, supporting the creation of test magazines, which has proven an effective tool in raising consumer awareness in some of the old Member States, and by launching consumer policy information campaigns in all the Member States. At the moment the responsible DG within the Commission (DG SANCO) is starting a campaign in Poland but due to money restrictions they can only afford to campaign in one country each year.

1.4. Businesses and consumers – a well functioning Internal Market

Another point worth stressing is the lack of interest some businesses have in consumer issues. Many companies in the new Member States do not realise their importance. Many of them see consumer organisations as opponents. Therefore, it is vital to make the private sector and the authorities in the new Member States understand that competition and consumer protection are not contradictory but can be seen as preconditions. Companies in the 21st century have to realise that high consumer standards can be one of the most important factors in raising their competitiveness in the Internal Market.

Furthermore, business can play a major role in advancing a consumer culture and in so doing strengthen competition and open markets for honest traders, and it is therefore important to encourage business organisations in the new Member States to work closely with consumer organisations and governments to establish a framework for self-regulation that will complement consumer and government activities.

From a more general point of view, it should be stressed that a very important factor in strengthening the consumer culture is better awareness of the benefits that well-functioning

markets can bring to consumers. The Internal Market stands or falls on consumer confidence. Without it, it cannot function properly.

Across the EU it must be a top priority to achieve a high common level of consumer protection so that the consumer has more confidence in the functioning of the Internal Market. Mutual trust will promote cross-border transactions and will make sure that consumers take advantage of the Internal Market.

1.5. Dispute resolution

From the point of view of making the internal market work for consumers, the resolution of consumer disputes is an important issue. Consumers will lose their faith in market mechanisms if their disputes with suppliers are not resolved effectively.

Alternative Dispute Resolution (ADR) is out of court dispute resolution which is usually conducted by a third party. Some types of ADR result in binding and enforceable decisions, but not all ADRs have that status. Examples of ADR are arbitration, mediation, complaint boards and the ombudsman.

ADR is regarded as being cheaper, faster and more effective than Court litigation, yet it is relatively unknown. The institutions of the EU have repeatedly declared ADR a political priority.

The tradition of ADR differs throughout Europe, mirroring the Member State's variety in litigation, culture and historic development. Only some of the countries have so far notified an ADR body to the European Commission, within the framework of the ECC network. These bodies should of course be established in all countries throughout the EU.

Generally speaking, many of the new Member States are facing the unwillingness of businesses to enter ADR schemes and have to face low consumer awareness about its possibilities. Many ADR mechanisms issue non-binding or non-enforceable recommendations only. If the company does not comply, the consumer has to go to court anyway. This is a costly procedure that the consumer wants to avoid; here lies a possible role for enforcement of ADR rulings by consumer protection authorities.

Some of the new Member States plan to start a reform that should widen the competence of ADRs, either through specialisation or generalising competencies in several sectors. It might be recommended that a comprehensive study of the existence and functioning of ADR bodies be conducted by the European Commission to identify the needs for other European initiatives and support which could be supplement the ECC network and which could also be more targeted towards the specific situation in the new Member States.

PROCEDURE

Title	Promotion and protection of consumers' interests in the new Member States			
Procedure number	2004/2157(INI)			
Basis in Rules of Procedure	Rule 45			
Committee responsible Date authorisation announced in plenary	IMCO 28.10.2004			
Committee(s) asked for opinion(s) Date announced in plenary				
Not delivering opinion(s) Date of decision				
Enhanced cooperation Date announced in plenary				
Motion(s) for resolution(s) included in report				
Rapporteur(s) Date appointed	Henrik Dam Kristensen 27.9.2004			
Previous rapporteur(s)				
Discussed in committee	28.9.2004	24.11.2004	18.4.2005	14.9.2005
Date adopted	22.11.2005			
Result of final vote	for:	35		
	against:	0		
	abstentions:	0		
Members present for the final vote	Mia De Vits, Janelly Fourtou, Evelyne Gebhardt, Malcolm Harbour, Christopher Heaton-Harris, Anna Hedh, Edit Herczog, Anneli Jäätteenmäki, Pierre Jonckheer, Henrik Dam Kristensen, Alexander Lambsdorff, Kurt Lechner, Lasse Lehtinen, Toine Manders, Arlene McCarthy, Manuel Medina Ortega, Bill Newton Dunn, Zita Pleštinská, Zuzana Roithová, Luisa Fernanda Rudi Ubeda, Heide Rühle, Leopold Józef Rutowicz, Andreas Schwab, Eva-Britt Svensson, József Szájer, Marianne Thyssen, Jacques Toubon, Bernadette Vergnaud, Phillip Whitehead, Joachim Wuermeling			
Substitutes present for the final vote	Charlotte Cederschiöld, Joel Hasse Ferreira, Othmar Karas, Joseph Muscat, Alexander Stubb			
Substitutes under Rule 178(2) present for the final vote				
Date tabled – A6	30.11.2005		A6-0378/2005	