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# Analysis of the Implementation of the **Law no. 06 / L-034** On Consumer Protection



Policy Study



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## Institute for Development Policy - INDEP

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Note:

This paper was originally written in Albanian.



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## 1. Introduction

Law No. 06/L-034 on Consumer Protection is a law that was adopted relatively late. The first important Law on Consumer Protection after the declaration of independence was adopted in 2012. However, Law No. 06/L-034, adopted in 2018, unlike the one of 2012, expanded the scope and, in addition to the general relationship between the sellers of products and services and consumers, aimed at regulating:

- market conditions in business-to-consumer relations, including products labelling, price indicators, public services and unfair commercial practices;
- consumer rights in relation to contracts, including unfair contract conditions, distance sales and off-premises sales, non-conformity contracts, consumer credit contracts and tourism products contracts;
- administrative and judicial protection of consumer interests;
- institutional cadre for consumer protection in the Republic of Kosovo.<sup>1</sup>

Analysis of implementation of Law No. 06/L-034 on Consumer Protection serves to identify areas in which implementation is still lingering and see if there is a need for a Law amendment process or not. Furthermore, the analysis aims to boost the dialogue between consumer protection stakeholders, in order to improve law implementation practices, exchange experiences and raise awareness in general. Finally, the purpose of the paper is to serve as an additional reference point for future working groups that will deal with the amendment and supplementation of the legal basis.

The legal framework on consumer protection is being augmented in European countries and at the level of the European Union in general. Accelerated economic development, along with the rapid growth of the number of services and products and transformation of economies from conventional to more modern ones have put the consumer at the centre of such transformations. Hence, legal protection for the consumer contributes to the protection of consumer's economic interests, the increase the safety of products and services and the preparation of the local economy to be competitive in the wider regional and European markets in general.

The biggest challenge of the legislation in Kosovo was not so much the quality of preparation and adoption of laws, but their implementation in practice. This is because there was a constant

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<sup>1</sup> Republic of Kosovo, (2018), Law No. 06/L-034 on Consumer Protection, Article 1, Purpose, Prishtina: OGRKS.

shortfall of sufficient inspection resources, an incompatibility of laws with the reality and in general policy-making that preceded the legislation was more focused on the fulfilment of formal international obligations and not always on implementation in practice.

This paper was drafted in the framework of consumer protection component within the INDEP program for democratic governance. Consumer protection within the INDEP program for democratic governance is supported by the European Union Office in Kosovo. The views, conclusions and recommendations expressed in this analysis are those of INDEP and do not necessarily reflect those of the donor.

## **2. Methodology**

To design this analysis, INDEP has used a mixed, quantitative and qualitative methodology. As part of the quantitative research, we have collected statistics and numerical data on the number of complaints in various sectors, the number of inspections, etc. Numerical data were also accompanied with the collection of qualitative data. We have conducted unstructured meetings and interviews with the Department of Consumer Protection with the Ministry of Trade and Industry and

The data collected were primary and secondary. Secondary data consisted of the analysis of literature through desk research, analysis of reports, official publications and analysis of data extracted from inspection statistics, reported cases, etc. All secondary data were verified before conclusions were drawn. A challenge to data collection was the COVID-19 pandemic, which has caused delays in obtaining information and confirming them.

## **3. Law on Consumer Protection**

The Law on Consumer Protection is of special importance to the citizens of the Republic of Kosovo. However, this law has left a large number of issues to be regulated by bylaws, which, in

terms of their binding weight, we know have a lower hierarchy than the law itself and the option of public consultation is less practicable.<sup>2</sup>

Having analysed the current Law on Consumer Protection, which entered into force in June 2018, INDEP found that the legislative agenda of the Legal Department to draft bylaws that would regulate many general issues in Law No. 06/L-034 on Consumer Protection has not been completed yet.

Although in the transitional provisions, respectively in paragraph 2 of **Article 140**, it is stated that "*with the purpose of enforcement of this law, the Ministry of Trade and Industry shall issue by-laws within twelve (12) months from the entry into force of this law*", 22 months have already passed since the adoption and the entry into force of the law in June 2018 (June 2018-April 2020), and the sub-legal package has not been completed yet.

#### 4. Legal and institutional framework

The Institute for Development Policy (INDEP), after analysing the sublegal acts related to the Law on Consumer Protection and drafted and published in the **Ministry of Economy, Employment, Trade, Industry, Entrepreneurship and Strategic Investments (MEETIESI)**, has found that only 1 (one) regulation was drafted in 2020:

1. Administrative Instruction No. 01/20120 on the Maintenance of Electronic Registry of Collective Claims finalised by Final Judgement

However, the instruction was issued with a 22-month delay, namely it was published on 16 April 2020, and, according to article 10, entered into force 7 days after its publication, if the time determined according to paragraph 2 of **Article 140** on Transitional Provisions of the Law on Consumer Protection, which states that the Ministry of Trade and Industry shall issue by-laws within twelve (12) months from the entry into force of this law (June 2018), is calculated.

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<sup>2</sup> INDEP has looked at the link Legislation, Public Discussions, respectively **Consultations on bylaws**, <https://meptinis.rks-gov.net/page.aspx?id=1,194>, accessed in April 2020, and noticed that there were no further consultations on bylaws since 2017.

However, we have noticed that there is a technical mistake in Article 10 on the *Entry into Force* i.e. in the wording of the instruction, because it reads “*This **Regulation** shall enter into force seven (7) days after publication*”, and, as a matter of fact, this legal document is not a regulation, but an administrative instruction.

On the other hand, based again on the provisions of Article 140 of the Law on Consumer Protection, according to which the Ministry should issue other bylaws, we found that only two regulations were adopted in 2019, they being:

1. Administrative Instruction No. 05/2019) on on Determining Standard Information Forms for Consumers of Timeshare Contracts and Related Contracts
2. Administrative Instruction No. 01/2019 on Determining the Shape, Content and Usage of the Flag on the Origin of the Product

Having analysed all legal documents published on the web page of the Ministry, we found that the following three by-laws were issued and entered into force in 2018, the year in which the new Law on Consumer Protection was issued:

1. Administrative Instruction No. 18/2018 on the Information Form, Time and Implementation Procedures for Withdrawal from Distance and Off-Premises Contracts
2. Administrative Instruction No. 13/2018 on the Complaint Handling Procedure by the Consumer Protection Department
3. Administrative Instruction No. 12/2018 on Determining the Form, Content and Use of the Logo of the Consumer Protection Department

If we analyse the articles that contain text parts that say that it will be regulated by a bylaw, such as **article 10 on Misleading Omissions, paragraph 5** “*Requests generated by local Kosovo Law harmonized with EU rules in relation to commercial communication, including advertising or marketing, where an incomplete list will be regulated by a bylaw*”, no such act regulating advertising or marketing in line with the new 2018 on Consumer Protection has been issued yet.

Although the language in this paragraph “*where an incomplete list will be regulated by a bylaw*” leaves room to suggest that the list will not be complete, or a technical mistake was made in drafting and publishing the text of this paragraph.

As to product labelling, regulated by **Article 16 on Label** of the Law on Consumer Protection, namely paragraph 9, which reads that *"In addition to the requirements specified in paragraph 1. of this Article, the labelling information may be regulated by by-laws"*, the Ministry has not issued any new specific instruction on labelling yet. The only by-law covering this area and published on Ministry's web page is the old Regulation No. 09/2013 on Labelling, Presentation and Advertising of Food Products.

However, there is an Administrative Instruction **No. 01/2019** on Determining the Shape, Content and Usage of the Flag on the Origin of the Product<sup>3</sup> (issued pursuant to Article 16, paragraph 8, and Article 140, paragraph 2), which does not fully cover product labelling and presentation. This sub-legal act, besides regulating the way in which the flag of product origin should be placed, does not really indicate further details on the product, such as information on the manufacturer or its address or the name of the goods, as required by Article 16 of the Law for Consumer Protection.

Despite the fact that in **Article 48 on Effects of the exercise of the right of withdrawal on ancillary contracts i.e. the part of the text of paragraph 2**, which reads that *"detailed rules on the termination of such contracts shall be laid down with a sub-legal act"*, this Ministry has not yet drafted a special sublegal act that would regulate the effects of the exercise of the withdrawal on ancillary contracts.

Though **Article 130 on Responsible structure for consumer protection i.e.** paragraph 2 thereof states that *"MTI by a sub-legal act shall regulate the organization and functioning of responsible structure for consumer protection"*, this Ministry has established the Consumer Protection Council on 21 February 2018, and the MTI web page states that The Council operates on the basis of the rules of procedure, which is drafted by the Council, the regulation of the Council has not been posted yet nor has any sub-legal act been issued to regulate and render the Council operational.

As to billing public services, regulated by **article 25 of the Law on Consumer Protection on Invoicing of public services i.e.** paragraph 2 thereof, which reads that *"the method of measuring and calculating the electricity, heating and water is regulated by laws and other by-laws"*, we have the following findings: Guide on Liberalization of Electricity Market in Kosovo, Regulatory Report: Determination of Maximum Revenues Allowed for City Heating Termokos JSC. Heating Season

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<sup>3</sup> With the entry into force of this Administrative Instruction, the Administrative Instruction No. 20/2018 on Determining the Shape, Content and Usage of the Flag on the Origin of the Product has been repealed.

2019/2020 as well as Regulation No. 07/2016 on Determination of Water Service Tariffs in Kosovo.

As to **article 104** of the Law on Consumer Protection i.e. paragraph 2 thereof, which stipulates that “*Standard information forms referred to in paragraph 1. of this Article, in cases of timeshare, long-term holiday product, resale and exchange contracts shall be regulated by a sub-legal act*”, the Ministry of Trade and Industry has issued the Administrative Instruction (MTI) No. 05/2019) on on Determining Standard Information Forms for Consumers of Timeshare Contracts and Related Contracts

This administrative instruction also applies to **Article 108** of the Law on Consumer Protection, the paragraph 3 of which reads that “*the contract shall include a separate standard withdrawal form, which shall be set by a sublegal act, intended to facilitate the exercise of the right of withdrawal in accordance with Article 109 of this Law and and Article 110 on Modalities for exercising the right of withdrawal from timeshare, long-term holiday product, resale and exchange contracts.*”

As to drafting sublegal acts falling under the responsibility of the Central Bank, the latter has drafted only the Instruction on Consumer Credit Information Form, which was adopted by the Executive Board of the Central Bank of the Republic of Kosovo at the meeting held on 18 January 2019, covering **Article 85 on Standard information to be included in advertising**, paragraph 2, and **Article 86 on Pre-contractual information**, paragraph 1 of the Law.

As to consumer rights in case of misuse of payment cards, regulated by **Article 67** of the Law on Consumer Protection, where the paragraph states that “*If in a distance contract the consumer credit card is misused, the consumer is entitled to request annulment of payment, be compensated by a payment or return the amount spent, according to the forms and conditions set out in the sub legal acts of CBK* ”, the Central Bank of the Republic of Kosovo has not issued any sublegal act regarding this article.

| <b>Law No. 06/L-034 on Consumer Protection</b>   |  |   |
|--|--|---|
| <b>Articles</b>                                  | <b>Paragraphs</b>  | <b>Comments</b>   |
| <b>Article 10</b><br><b>Misleading omissions</b> | 5. Requests generated by local Kosovo Law harmonized with EU rules in relation to commercial | So far there is only one Administrative Instruction No. 01/2015 Marketing Authorization for Medical |

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|  | communication, including advertising or marketing, where an incomplete list will be regulated by a bylaw.  | Products, but not a new instruction including advertising or marketing in accordance with the new 2018 Law on Consumer Protection. Only the old Regulation No. 09/2013 on Labelling, Presentation and Advertising 09/2013 on Labelling, Presentation and Advertising of Food Products.  |
| <b>Article 16<br/>Label</b>                        | 5. Requests generated by local Kosovo Law harmonized with EU rules in relation to commercial communication, including advertising or marketing, where an incomplete list will be regulated by a bylaw. | The Ministry of Trade has not yet issued any new specific instructions on labelling. Besides the Administrative Instruction No. 01/2018 on Determining the Shape, Content and Usage of the Flag on the Origin of the Product The only instruction published on Ministry's web page is the old Regulation No. 09/2013 on Labelling, Presentation and Advertising Food Products |
| <b>Article 25<br/>Invoicing of public services</b> | 2. The method of measuring and calculating the electricity, heating and water is regulated by laws and other bylaws.   | 1. Guide on Liberalization of Electricity Market in Kosovo, Regulatory Report:<br><br>2. Regulatory report: Determination of Maximum Revenues Allowed for City Heating Termokos JSC. Heating Season 2019/2020   |

|  |   |  |
|--|---|--|
|  |   | Regulation No. 07/2016 on Determination of Water Service Tariffs in Kosovo.  |
| <b>Article 39</b><br><br><b>Information required for distance and off-premises contracts</b> | 4. The information referred to in paragraph 1. sub-paragraphs 1.9., 1.10. and 1.11. of this Article may be provided by means of the model instructions on withdrawal to be set out in a bylaw. The trader shall have fulfilled the information requirements laid down in sub-paragraphs 1.9., 1.10. and 1.11. of paragraph 1. of this Article if he has supplied these instructions to the consumer, correctly filled in. | The MTI has drafted a sublegal act i.e. the Administrative Instruction No. 18/2018 on the Information Form, Time and Implementation Procedures for Withdrawal from Distance and Off-Premises Contracts   |
| <b>Article 44</b><br><br><b>Exercise of the right of withdrawal from the contract</b>        | 3. The trader may, in addition to the possibilities referred to in paragraph 1. of this Article, give the option to the consumer to electronically fill in and submit either the model withdrawal form that will be provided with a sublegal act or any other unequivocal statement on the trader's   | As to the exercise of the right to withdraw from the contract, this issue has been regulated by Administrative Instruction No. 18/2018 on the Information Form, Time and Implementation Procedures for Withdrawal from Distance and Off-Premises Contracts |

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|   | <p>website. In those cases the trader shall communicate to the consumer an acknowledgement of</p> <p>receipt of such a withdrawal on a durable medium without delay.</p>  |   |
| <p><b>Article 48</b><br/><b>Effects of the exercise of the right of withdrawal on ancillary contracts</b></p> | <p>2. Detailed rules on the termination of such contracts shall be laid down with a sub-legal act.</p>  | <p>MTI has not yet issued a separate sub-legal act for this type of contracts</p>   |
| <p><b>Article 67</b><br/><b>Consumer rights in case of misuse of payment card</b></p>                         | <p>If in a distance contract the consumer credit card is misused, the consumer is entitled to request</p> <p>annulment of payment, be compensated by a payment or return the amount spent, according to</p> <p>the forms and conditions set out in the sub legal acts of CBK.</p> | <p>No sub-legal act has been issued for this article by the Executive Board of the Central Bank of the Republic of Kosovo.</p>  |
| <p><b>Article 85</b><br/><b>Standard information to be included in the advertising</b></p>                    | <p>2. Standard information shall specify in a clear, concise and prominent way by means of a form to be determined by sub-legal act of the CBK:</p>   | <p>For this article, the Executive Board of the Central Bank of the Republic of Kosovo has, in its meeting held on 18 January 2019, approved the Instruction on the Consumer Credit Information Form.</p> |

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|---|---|---|
| <p style="text-align: center;"><b>Article 86</b></p> <p><b>Pre-contractual information</b></p>                          | <p>1. In good time before the consumer is bound by any credit agreement or offer, the creditor and,</p> <p>where applicable, the credit intermediary shall, on the basis of the credit terms and conditions</p> <p>offered by the creditor and, if applicable, the preferences expressed and information supplied by</p> <p>the consumer, provide the consumer with the information needed to compare different offers in</p> <p>order to take an informed decision on whether to conclude a credit agreement. Such information, on paper or on another durable medium, shall be provided by means of the Consumer Credit Information form set out with sub-legal act by CBK.</p> | <p>For this article, the Executive Board of the Central Bank of the Republic of Kosovo has, in its meeting held on 18 January 2019, approved the Instruction on the Consumer Credit Information Form.</p> |
| <p style="text-align: center;"><b>Article 104</b></p> <p><b>Pre-contractual information in timeshare, long-term</b></p> | <p>2. Standard information forms referred to in paragraph 1. of this Article, in cases of timeshare,</p>  | <p>For this article, the Ministry of Trade and Industry has issued Administrative Instruction (MTI) No. 05/2019) on</p>   |

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| <p><b>holiday product, resale and exchange contracts</b></p>  | <p>long-term holiday product, resale and exchange contracts shall be regulated by a sub-legal act;</p>   | <p>Determining Standard Information Forms for Consumers of Timeshare Contracts and Related Contracts</p>  |
| <p><b>Article 108</b><br/><b>Information on the right of withdrawal from timeshare, long-term holiday product, resale and exchange contracts</b></p>            | <p>3. The contract shall include a separate standard withdrawal form, which shall be set by a sublegal act, intended to facilitate the exercise of the right of withdrawal in accordance with Article 109 of this Law.</p>   | <p>The same Administrative Instruction (MTI) with No. 05/2019) on Determining Standard Information Forms for Consumers of Timeshare Contracts and Related Contracts</p> |
| <p><b>Article 110</b><br/><b>Modalities for exercising the right of withdrawal from timeshare, long-term holiday product, resale and exchange contracts</b></p> | <p>Where the consumer intends to exercise the right of withdrawal, the consumer shall, before the expiry of the withdrawal period, notify the trader on paper or on another durable medium of the decision to withdraw. The consumer may use the standard withdrawal form to be set by a sublegal act pursuant to paragraph 2. of Article 104 of this Law provided by the trader in accordance with paragraph 1. of Article 108 of this Law. The deadline is met if the notification is sent before the withdrawal period has expired.</p> | <p>For this article, the Ministry of Trade and Industry has not issued any sublegal acts.</p>   |

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| <b>Article 116</b><br><b>Resolution of complaints</b>                      | 5. Regulators or other competent bodies to decide regarding the consumer appeal against the decision of the trader, unless otherwise provided by special regulation, shall take a decision in the time period of two (2) months from the date of appeal. | MTI has issued a sub-legal act that regulates the manner of complaints, namely Administrative Instruction No. 13/2018 on the Complaint Handling Procedure by the Consumer Protection Department  |
| <b>Article 127</b><br><b>Registration of judgement</b>                     | 5. The detailed content and the manner of keeping the register of submitted actions and approved decisions will be determined by a sub-legal act of the Ministry.  | The Ministry of Trade has not yet drafted any by-laws on the manner of keeping the electronic register of collective claims finalized by final judgements.   |
| <b>Article 130</b><br><b>Responsible structure for consumer protection</b> | 2. MTI by a sub-legal act shall regulate the organization and functioning of responsible structure for consumer protection.  | Though the MTI has established the Consumer Protection Council on 21 February 2018 and the MTI web page says that the Council operates based on the Rules of Procedure drafted by the Council, the Council regulation has not been posted yet. |
| <b>Article 140</b><br><b>Transitional provisions</b>                       | Transitional provisions 1. Aiming not to be violate the  | It is evident that though more than 12 months have passed  |

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|  | <p>present Law, and until the issuance of new bylaws as supplementary acts for enforcement of the present law, the present legal bylaw will continue to remain in force, as: Regulation (MTI) No. 09/2013 on Labelling, Presentation and Advertising of Food Products.</p> <p>2. With the aim of implementing the law, the Ministry of Trade and Industry shall issue bylaws within twelve (12) months from the entry into force of this law.</p> | <p>since since the adoption of the law, the sublegal package related to the Law on Consumer Protection has not been completed yet.</p> |
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## Inspections

Inspections have seen a rise in 2019. 461 general inspections have been conducted in total and that MTI 333, MZHE 118 and MPB 10. However, Inspectorate's capacities remain limited and the increase of the number of inspectors would be necessary to increase the implementation of the mission and the rate of implementation of legislation in force. The market inspectorate has faced considerable challenges in 2020 taking into account

| Authorities involved        | IT (MTI)   | PHI (MoH) | EI (MED) | NIESFS (MiA) | DMV(MI) | EPI (MESP) | LI (MLSW) | Total |
|-----------------------------|------------|-----------|----------|--------------|---------|------------|-----------|-------|
| Total inspections conducted | <b>333</b> | /         | 118      | 10           | /       | /          | /         | 461   |
| <b>Proactive monitoring</b> | <b>262</b> | /         | 117      | 10           | /       | /          | /         | 389   |
| a) from the plan            | 262        | /         | 117      | 10           | /       | /          | /         | 72    |

|                              |           |   |   |   |   |   |   |    |
|------------------------------|-----------|---|---|---|---|---|---|----|
| <b>Reactive monitoring</b>   | <b>71</b> | / | 1 | / | / | / | / | 35 |
| a) from rapex                | 35        | / | / | / | / | / | / |    |
| b) notice from the inspector | /         | / | / | / | / | / | / | /  |
| c) customer complaint        | /         | / | / | / | / | / | / | /  |
| e) notice from customs       | 36        | / | 1 | / | / | / | / | 37 |

Table 1. Inspections conducted in 2019. Source: Market Inspectorate

### Placing flags on shelves

The decision to introduce paragraph 8 under Article 16 on the Label was taken by the Assembly of Kosovo. The amendment was proposed during the proceedings of the working group and adopted at the hearing at both readings. The provision of Article 16 stipulates that:

the seller is obliged to indicate the origin of the product also by placing a label indicating the flag of the country of origin of the product. The flag should be placed close to the selling price or unit price.<sup>4</sup>

Seller's obligation to place state flags in product shelves has no basis in the European legislation on consumer protection. On the contrary, the provision is:

- Contestable in legal and constitutional terms
- Discriminatory and in contradiction with the principles of free trade

The Constitution of the country, in its Article 19, stipulates economic relations and basic principles

1. The Republic of Kosovo shall ensure a favorable legal environment for a market economy, freedom of economic activity and safeguards for private and public property.

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<sup>4</sup> Republic of Kosovo, (2018), Law No. 06/L-034 on Consumer Protection, Chapter III, Article 16, Prishtina: OGRKS, accessible at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=16551> (accessed in June 2020).

2. The Republic of Kosovo shall ensure equal legal rights for all domestic and foreign investors and enterprises.<sup>5</sup>

Stipulating the placement of flags by law is not a European practice in the protection of consumer rights and does not, as such, contribute to the increase of implementation of legislation.

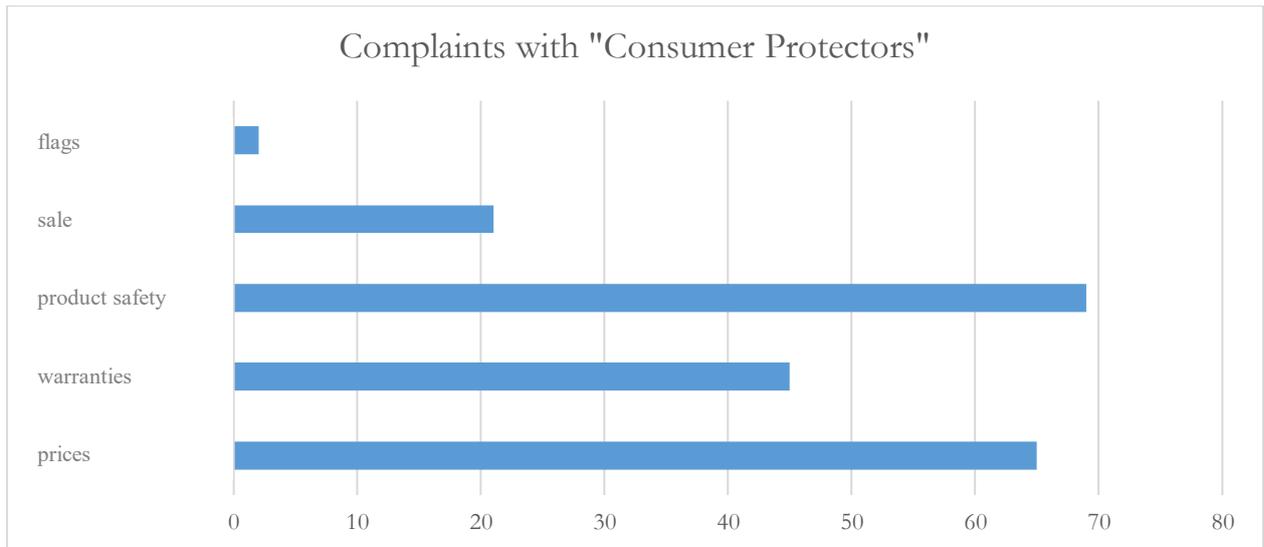


Figure 1. Major complaints

### Online purchases

One of the biggest problems that has mostly occurred during the COVID-19 pandemic were online purchases. A large number of customers have

### Austria

Austria does not have a uniform legal framework as regards Law on Consumer Protection. In terms of consumer protection, they have the Austrian Federal Consumer Protection Act (Konsumentenschutzgesetz) The act contains non-sectoral provisions that defend consumer interests, and specific sectoral provisions of the law on consumer protection can be found in laws regulating certain business activities e.g. Austrian Federal Act on Payment Services

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<sup>5</sup> Republic of Kosovo, (2008), Constitution of the Republic of Kosovo, Article 119, Prishtina: OGRKS, accesible at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702> (accsed in September 2020)

(Zahlungsdienstegesetz) contains information obligations for traders, which are binding to them when they deal with consumers

### **Albania**

In Albania, complaints for consumer protection are reviewed by the Financial Oversight Authority. Besides reviewing and handling consumer and investor complaints, the institution also deals with monitoring the implementation of the legislation in force and boosting preventive activities in the behaviour of markets under supervision and entities operating in such markets, the increase of the level of information available to the public, undertaking campaigns to increase financial education and assisting consumers/investors by providing information and explanations as per their request.

Also, in 2019, Albania has made the filing of complaints via an online system possible. The system has made the filing of complaints more easily accessible for the services received from entities that conduct their activities in the markers overseen by the Authority, Based on Authority's report, 82 complaints were filed in 2018 involving claims for damages that derive directly from insurance contracts issue by insurance companies or complaints against investment fund and voluntary pension market operators.

### **Slovenia**

Slovenia has a special law on consumer protection. The law provides enterprise actions and omissions and trade practices toward the consumer that are considered unjust and regulates administrative and judicial protection against unfair consumer business practices. So, it is based on this law that Slovenia reviews consumer complaints that are processed.

### **Macedonia**

Neighbouring countries have also issued laws on consumer protection. We may mention here the example of Macedonia, The Macedonian Law on Consumer Protection regulates the protection of consumer rights and the requirements and the manner of implementation of required protection rules and practices. This includes trade operation requirements that are important for the protection of consumer rights, the rights and obligations of consumer associations and state administration competences in relation to consumer protection.

### **Bosnia and Herzegovina**

In order to strengthen consumer protection, many countries of the region and beyond have taken various initiatives. It is worth noting a project that appears as the first initiative in the BiH for the "Protection of Consumers by Improving the Legal Framework in Banking and Microfinancial

Sectors” in 2010. The project has focused on calibrated consumer protection among the most needed participants in the financial sector market. The project also aimed at requests for establishing the required consumer protection institutions and their powers and mandates and legal safeguards.

There were similar initiatives in other countries too. It is worth noting a two-day workshop in Serbia. The workshop was organised in 2015 in Belgrade. In the workshop, consumer protection organizations from Serbia, Montenegro and Macedonia had the chance to discuss the analytical framework and data collection in order to strengthen their capacities in defending the consumer rights of municipal services in the South-East Europe.

### **Romania**

In Romania, the overall legislation on consumer protection is represented by:

- Law No. 296/2004 on Consumer Code (hereinafter referred to as " Consumer Code")
- Government Directive No. 21/1992 on Consumer Protection (hereinafter referred to as "SHKO 21/1992").

The law and the directive protect the consumer in Romania. In addition, the relevant state institutions of this country have issued an informational brochure called “Consumer Complaints in Romania” regarding necessary information on institutions where those complaints are filed. The brochure also provides information on what a complaint should contain and how it should be written properly in order to be forwarded to the relevant authorities.

### **Bulgaria**

Bulgaria, too, since its accession to the European Union in early 2007, has been trying to adopt and implement good consumer protection practices. The main consumer protection legislation in Bulgaria is represented by the Law on Consumer Protection. This Law, through the latest amendments, includes and implements the main EU directives on Consumer Protection.

### **Greece**

Greece also has a special law on consumer protection. The main piece of legislation on Consumer Protection in Greece is Law 2251/1994, which largely implements the rules of the European Union. The Law establishes, in a coherent and structured way, a complete consumer protection system based on certain articles. Article 1 sets out the general part, which stipulates the general principles to be taken into account in consumer protection policy and the meanings of the central

notions of "consumer" and "supplier". The first part of Law 2251/1994 (Articles 2 to 9) includes substantive law provisions and consists of "individual" consumer right, and the second part (Articles 10 to 13) that follows regulates procedural and organizational issues and includes the "collective" consumer law.

In terms of consumer protection, it is the main instrument for monitoring the consumer environment all around Europe. This instrument, called the Consumer Conditions Scoreboard, sets forth consumer requirements in EU member states plus Iceland and Norway. Annex I describes the scoreboard conceptual and methodological frameworks, Annex II contains the complete set of data and Annex III country sheets with key indicators.

The scoreboard is published every two years. The last year in which the scoreboard was published was in 2018. The data mainly rely on representative surveys of consumers and retailers, supplemented with data from other sources.

## 4. Conclusions

Current Law No. 06/L-034 on Consumer Protection needs to be amended and changed. Although the Law, when it entered into force in June 2018, provided a good basis for the organization of consumer protection, it nevertheless only partially supplemented the European legislation in the field of consumer protection.

Law No. 06/L-034 on Consumer Protection has been in force for two years now. Based on our findings and the situation in practice, the Assembly of Kosovo has can initiate a process to monitor the implementation of the Law. The process would highlight the achievements since its entry into force, implementation challenges and provisions that could not be implemented and give the Assembly the opportunity to become more closely acquainted with an area that is crucial to the integration process.

The Ministry in charge of consumer protection has not yet completed the legal basis required by Law No. 06/L-034 on Consumer Protection. Completion of the legal framework would contribute to its better implementation and enable lawmakers and other stakeholders to see the full effects of implementing the legislation.

Consumer protection in the banking sector is vital to ensure the completion of legal infrastructure. The European Commission 2020 report on Kosovo mentions consumer protection by the banking sector specifically. The Central Bank of the Republic of Kosovo has not yet adopted the entire legal basis on consumer protection, especially regarding the unification of consumer protection systems, protection of non-governmental sector consumers, etc.

The Inspectorate struggles with a shortfall of adequate human capacities and uncertainty as regards competencies of the local level as opposed to the central one. In such a situation, the lack of human capacities is an inevitable obstacle to the proper implementation of the legal basis. A separate law on inspections is missing – it would create the proper legal basis for capacity building, clarification of competencies and empowering an independent inspectorate.

The legal obligation to place flags on product shelves runs counter to the constitutional principles of a free market economy and the non-discriminatory practices that the states should follow. Moreover, the practice *per se* no longer protects citizens and their rights as consumers.

One of the biggest problems identified is online shopping. Especially at the time of the pandemic, when online orders have increased significantly, a large number of problems were identified. The lack of identification of sellers, either by banks, which is a European practice, or by other state authorities, has led to the violation of consumer rights. In many cases, the clear addresses of the sellers are missing, fiscal coupons are not issued and thus the inspectorate finds it difficult to inspect and realize consumer rights.

There is a significant lack of awareness of citizens on consumer rights. Through the Consumer Protectors platform, we have noticed an increased need for consumers to be informed about complaint procedures, basic rights, etc. Institutions need to increase the number of awareness campaigns and information materials for citizens.

## 5. Recommendations

1. The Government of the Republic of Kosovo should immediately initiate the amendment of Law No. 06/L0-034 on Consumer Protection. The new draft law should be amended with a transparent and all-inclusive procedure, by fully adhering to the Government Regulation No. 05/2016 on Minimum Standards for Public Consultation Process. The legal amendment should be preceded by a social debate, which should include all social groups, interest groups and local and foreign experts.
2. The Assembly of Kosovo should, through the relevant functional committee, initiate the procedure of analysing the implementation of the Law in the beginning of 2021.
3. The responsible ministry must complete the adoption of the remaining bylaws in the shortest term possible, because it is a legal obligation, and the lack of a concrete bylaw leaves room for a certain field of activity to be resolved in different and possibly even wrong ways.
4. The Central Bank of the Republic of Kosovo must adopt the bylaws in accordance with the Law on Consumer Protection, because nearly two years have passed since the entry into force of the Law on Consumer Protection, and the CBK has not yet adopted all bylaws provided in the articles of the Law.
5. The Law on Inspections should be adopted and enter into force in order to boost inspectorate's capacities and clearly define the competencies of the central and local levels.
6. The provisions of Article 16, paragraph 8 on the obligation of traders to place flags are discriminatory and should be eliminated in future versions of the Law as such.
7. The European Directive on Online Shopping should be transposed and the provisions of Chapter VIII should be amended.
8. Article 81 on warranties should be amended in order to clarify the limitations and keeping of records and history of warranties.
9. A sustainable and joint mechanism should be set up between inspectorates and the Business Registration Agency and online selling businesses should be regulated.
10. The implementation of Article 40 on "off-premises contracts" should be strengthened.
11. Government must establish a mechanism for regular consumer information and awareness campaigns in order to have regular consumer information and awareness campaigns.
12. The Ministry should organize public consultations on bylaws too, because only public consultations on Laws have been held so far, with almost no application of consultations on bylaws, which are documents that regulate a certain issue in more detail, and the opinion

and involvement of all the stakeholders who are affected by a certain sub-legal act is more than necessary.

13. The Consumer Protection Council should have a more active role in supporting changes in the existing legislation and regulations because, as a council, though it drafts and oversees the implementation of the Consumer Protection Program and reports to the Ministry of Trade on the implementation of the program, it also has the legal obligation to support changes in existing legislation and regulations.

