



Republika e Kosovës
Republika Kosova - Republic of Kosovo
Qeveria - Vlada - Government
Ministria e Industrisë, Ndërmarrësisë dhe Tregtisë
Ministarstvo Industrije, Preduzetništva i Trgovine - Ministry of Industry,
Entrepreneurship and Trade

REPORT FROM THE CONSULTATION PROCESS ON
CONCEPT PAPER FOR AMMENDING AND SUPPLEMENTING THE
LAW ON CONSUMER PROTECTION

Introduction/background

The Ministry of Industry, Entrepreneurship and Trade, respectively the Department for Consumer Protection in the capacity of the Proposing Body of the Concept Paper to amend and supplement the Law on Consumer Protection, has proposed the drafting of this document in order to improve and update the principles of the consumer`s protection right. The Draft-Concept for supplementing and amending the Law on Consumer Protection is an important document, which puts consumers at its center, while as a reference point the Consumer Protection Program.

In principle, the rationale for drafting this Concept is to empower the consumer for an active role in the market, exercising his / her rights and power of well-informed choice in purchasing the goods and services received. Properly designed and implemented consumer protection policies enable them to make well-informed choices, positively impacting the creation of fair competition and sustainable growth. Thus, the aim for amending and supplementing the Law on Consumer Protection is to empower consumers and to have an active role in the market, which requires strengthening consumer confidence in the purchase of goods and services.

Based on the Regulation No. 09/2011 of the Rules of Procedure of the Government of the Republic of Kosovo, on 30.07.2021, the competent administrative authorities in MIET, have sent the draft concept paper for consultation to all institutions that are parties of interest, to provide information to them and to the public, in particular in order to obtain their opinion and the public's opinion on the concept in question.

The Ministry of Industry, Entrepreneurship and Trade, respectively the Department for Consumer Protection in the relevant draft document has identified provisions in the Law on Consumer Protection, which are not supported by adequate administrative measures and / or necessary criminal provisions. So, in the first place, the purpose of the concept is to support the current Law on Consumer Protection with special provisions and / or necessary / appropriate administrative measures or criminal provisions, in order to achieve a full efficiency of the legislative framework for the supervision of market in the field of consumer protection.

The draft concept paper also identifies the need for further harmonization with the changes that European legislation has undergone since the adoption of the current Law in force 06 / L-034 on Consumer Protection in 2018. The EU Commission proposed to launch a series of reforms / improvements in the field of consumer protection in the EU, which was eventually crowned with the drafting of the Directive on better implementation and modernization of consumer protection (EU / 2019/2161).

Lastly, the concept paper on amending and supplementing the Law on Consumer Protection has been able to identify deficiencies and / or non-adaptations of existing local legislation and regulations to new business conditions, which may further pose a significant obstacle to the development of trade and general economic in the Republic of Kosovo. In this context, in addition to other laws that directly affect the field of trade, current and of particular importance, for several years now, we see the need for the development of electronic trade.

The progress of the consultation process

Considering that the consultation process has been carried out and developed in accordance with the rules of procedure set out in the Regulation No. 09/2011 on Rules of Procedure of

the Government, Regulation No. 05/2016 on minimum standards for the public consultation process, Instruction No. 062/2011, dated 26.09.2011, for Consultation Process, the Ministry of Industry, Entrepreneurship and Trade, as the proposing body of this legal act, has developed the process of preliminary and public consultations in which period it has distributed consultation to all relevant institutions and parties of interest to provide them information on the public, and in particular to the groups of interest, in order to obtain the opinion of the public and groups of interest on drafting this Concept Paper.

Taking into account that the consultation process has been carried out and developed in accordance with the rules of procedure set out in the Regulation No. 09/2011 on Rules of Procedure of the Government, the Ministry of Industry, Entrepreneurship and Trade during this period has received comments regarding the Concept Paper to supplement and amendment the Law on Consumer Protection, by the 'Agency for Gender Equality' within the Prime Ministry on 16.08.2021, by ' Association of Retailers on 06.09.2021, as well as by the NGO 'INDEP' on 06.09.2021.

Consultation methods	Dates/duration	Number of participants	Number of participants who contributed	Number of comments received
1. Written/electronic consultations;	30.07.2021 15 business days			1
2. Publishing on the web page/electronic platform	16.08.2021 15 business days			
3. Public meetings				
4. Conferences				
5. Meetings with groups of interest				
6. Workshops				
7. Interviews/face to face meetings				
8. Opinion surveys				
9. Discussion voting				
10. Panels with citizens				
11. Road stands				
12. other				

Summary of the contributions received during the consultation process and the categories of contributors

There were comments.

Next steps

Detailed table with contributors' information, reasoning and answers for accepted and rejected responses.

Name of the organization /person	Comment of the organization /person	Response of the Ministry Fully accepted Partially accepted Rejected	Explanation by the Ministry (particularly the reasons for the rejection of particular comments)
International Advisor/UNWOMEN (Agency for Gender Equality under the Prime Ministry).	References, inclusion, reflection and transposition of EU provisions on gender equality, Kosovo legal frameworks, and other human rights and gender equality instruments, as well as EU strategic instruments are missing.	Partially accepted	The scope of the Law on Consumer Protection (06 / L-34), primarily the responsibility of the DCP, regulates (as stated in Article 3 of the Law) the relationship between consumers on the one hand and manufacturers, suppliers, sellers or providers of products or services on the other hand, to protect the consumer from unfair practices in the market of the Republic of Kosovo (in this case regardless of race, religion, gender, nationality ...)! Thus, the basic principles on which consumer protection policies are built and implemented in the European Union and Kosovo, extend within the framework of basic

			consumer rights (Article 5 of the Law).
International Advisor/UNWOMEN (Agency for Gender Equality under the Prime Ministry).	There is a lack of genuine analysis with a gender perspective for consumer protection.	Partially accepted	The concept of gender equality is already part of (among others) 'consumer rights' (basic principles in the EU), part of the policy as envisaged by the 2016-2020 program (and respectively the draft program 2021-2025) for consumer protection. These rights (among others) are then expressed through regulation and/or de-regulation (as defined by the policy) depending on the duties and responsibilities of different departments such as the Department for Consumer Protection (DCP).
International Advisor/UNWOMEN (Agency for Gender Equality under the Prime Ministry).	Failure to implement gender impact assessment (GIA) according to the standards set for the implementation of Regulatory Impact Assessment and Gender Impact Assessment (relevant manuals)	Partially accepted	In chapter 4 of the draft concept paper (page 40) 'Identification and assessment of future impacts', as well as in appendix 4 of the concept paper (page 58) - 'Assessment form for the impact of fundamental rights', should appear also the 'gender equality assessment' (according to the manual in question), which I consider (or have considered as a working group) to be covered (or has been covered) in point 2 of appendix 4 of the draft concept, and in which case / we have stated, as a working group, that there is no impact (this is mainly based on the reasons as emphasized in the above points)!

Association of Retailers.	Removal of the provision for placing the flag of origin (Article 16 of the Law on Consumer Protection)	Partially accepted	The removal of the provision in question has been (from the beginning/initiation) and have also been insisted from the competent/present structures of the EU in Kosovo (respectively those from Brussels), and therefore, in this context, the removal of the provision/s in words, in the context of the proposal by the EU authorities, is already mentioned as such in the Draft Concept Paper.
NGO - INDEP	We propose that in the concept paper, on page 38, at recommendations, to add the Recommendation No. 6 with the following content: To remove the obligation to place the flag of the country of origin near the products in accordance with European legislation and the economic interests of consumers"	Partially accepted	The removal of the provision in question has been (from the beginning/initiation) and have also been insisted from the competent/present structures of the EU in Kosovo (respectively those from Brussels), and therefore, in this context, the removal of the provision/s in words, in the context of the proposal by the EU authorities, is already mentioned as such in the Draft Concept Paper.
NGO – INDEP	INDEP proposes to also add the recommendation to the section of Recommendations on page 38 following: Recommendation 7: Obligate a special label for potentially harmful products for health ”.	Rejected	The issue of label adjustment and / or modification coincides with ‘Regulation on Labeling, Presentation and Advertising of Food Products (No. 09/2013)’. Completion and amendment of this Regulation, since 2016 coincides with the Food and Veterinary

			Authority (FVA). This is how it was officially decided (at that time) as it was considered that we are dealing with 'food quality'.
NGO - INDEP	INDEP proposes to also add the recommendation to the section of Recommendations on page 38 following: Recommendation 8: Oblige economic entities to maintain guarantees registers and warranty coverage“	Partially accepted	This issue needs to be defined as it also relates to the Law on Audit and / or the Law on TAK. As a consumer, it is recommended that the warranty and / or contract for the purchased product always be possessed and maintained.
NGO - INDEP	INDEP also proposes at the recommendation part on page 38 to add the following recommendation: Recommendation 8: To establish a universal right for returning products within a certain period of time, regardless of whether the contract is at a distance or not”.	Partially accepted	This issue should be defined as a 'universal right' should be defined in social terms, especially given that the EU market (towards which the policies of the Republic of Kosovo generally aim), is also characterized by the principle as ' free market and based on competition'.
NGO - INDEP	INDEP also proposes at the recommendation part on page 38 to add the following recommendation: “Recommendation 9: To ensure that consumers are offered opportunities for settlement of disputes through alternative forms such as mediation ”	Rejected	The issue of regulation and / or modification of the Law on Mediation, in whose domain is also the ‘Alternative Settlement of Disputes for Consumers’, since 2020 coincides with the Minister of Justice. This is how it was officially decided (at that time), as it was initiated as a special law by the DCP.
NGO - INDEP	INDEP also proposes at the recommendation part on page 38 to add the following recommendation: “Recommendation 10: To ensure that consumers are offered the option of protecting their identity in cases where general violations	Partially accepted	Consumer identity protection option in cases where general violations of their rights are reported, it is (it has been (from the beginning) an option that consumers can choose. This is at least when violations are reported

	of consumer rights are reported ”.		through the Department of Consumer Protection.
NGO - INDEP	<p>INDEP also proposes at the recommendation part on page 38 to add the following recommendation:</p> <p>Recommendation 11: To simplify the language of the Law and have clarity between the provisions in in order to reduce ambiguities and improve the references of fines with violations”</p>	Partially accepted	<p>The Law on Consumer Protection also deals with the exposure of 9 EU directives (considered at a high level by the EU experts themselves) that can sometimes result in bureaucratic language. Perhaps, in this context the remarks should be more specific. The issue of 'fines and violations' is one of the priority issues of this concept paper.</p>
NGO - INDEP	<p>INDEP also proposes at the recommendation part on page 38 to add the following recommendation:</p> <p>Recommendation 12: To ensure by law that a part of the budget of the responsible Ministry will be allocated on an annual basis for consumer rights awareness campaigns ”</p>	Partially accepted	<p>A part of MIET budget is always allocated on an annual basis to consumer rights awareness campaigns (more or less, depending on Government policies). However, this is not an issue that can be foreseen through the Law on Consumer Protection, because such a thing should be contrary to the relevant Laws (such as the one of budget), at the same time the principles of public administration.</p>