

# **Empower Consumer Association in Europe**

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Report

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## EXECUTIVE SUMMARY

Consumer's organizations must be stronger to develop their role by providing information to consumers, to represent their economic interests and to reach a high level of consumer protection. It's important to empower consumer associations to represent consumer interests at a national level and to promote the integration of their concerns into national and European policies.

This report is about national and European consumer organizations representativity. The report identify and evaluate the consumer organizations presence in advisory bodies, commissions and working groups at a national level across the large spectrum of consumers policies, but also, in the European advisory bodies and organizations. It is also important to have knowledge about their capacity to promote the dialogue with political and economic power by consultation and lobbying actions. This diagnosis is important to have a better knowledge about consumer association's difficulties, handicaps, failures which can help each other to analyze their own situation and look for strategies to change and improve their work in way to achieve their objectives.

This report intent to be an important tool to enforce and empower the consumer association's capacity to represents and protects consumer's interest. It allows to the consumer organizations, in a general way and, in particular, to the European Commission to have information about different experiences and ways of work of different consumer associations in way to improve and define adequate strategies.

The information about each consumer's organization in its Member-State was collected mainly through the completion of a Questionnaire, prepared and distributed to all Partners by DECO (see Annex). The report reflects on the data and information collected from the project co-ordinator and all the partners involved.



A meeting with most of the Partners was held in Lisbon on January the 11<sup>th</sup> (see list of presences in annex). During the meeting and according with the agenda (see annex) the answers to the questionnaire were discussed in order to better understand the situation and the feelings of each Partner, to dissipate misunderstandings and doubts and to clarify certain statements.

The present report is based on the analysis of the answers to the questionnaire (see comparative table in annex) and the results of the discussion during the aforementioned meeting. Consideration has been given to the information reports of the Commission in its site in the internet <[http://ec.europa.eu/consumers/empowerment/cons\\_networks\\_en](http://ec.europa.eu/consumers/empowerment/cons_networks_en)>.

The main objectives of the project are:

- Achieve a thorough knowledge about consumers' representation across European Union;
- Collect more complete information about consumer organizations activities and priorities;
- Evaluate the level of representation of consumers' organizations in European Union;
- Assess the level of representation of each consumers' organizations at their own Member-State;
- Monitoring empowerment of European consumers at each Member-State.
- Promote the dialogue between European organizations of civil society about the future of EU and its consumers' policies;
- Promote awareness, participation and commitment of consumers' organizations on consumers' policies at national as well as European level.



## THE REPRESENTATION OF CONSUMERS: A FONDAMENTAL RIGHT

Since Kennedy's speech in the 15<sup>th</sup> March 1962, that the right of consumers to be heard has been considered as one of the fundamental rights that should be taken in consideration in consumer policy, at both national and EU levels, implying the obligation of legislators and administrative authorities to foresee the representation and the consultation of consumers representatives in all matters which concern collective interests of consumers.

Even before the EEC had recognised the consumers' rights in the Treaty of Rome, the Council of Europe had already adopted the "Charter of consumer protection"<sup>1</sup>, where, for the first time, in Europe, the "right of representation and to be heard" was declared as an essential principle of consumers' policy.

Since the "Preliminary Program of consumers' information and protection policy"<sup>2</sup>, all the EU policy documents on consumer protection have highlighted the role and the importance of consumer participation and representation.

With the Maastricht Treaty (article 129-A) and especially after the Amsterdam Treaty (article 153), with the express consecration of consumers' rights in the Treaty of Rome, the representation of consumers gained new recognition and has been followed by several important administrative and legislative

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<sup>1</sup> Resolution 543 of 17 May 1973

<sup>2</sup> EEC Council Resolution of 14 April 1975, where a "comparative study on the different ways of consultation, representation and participation of consumers" has been already announced. In the EEC Second Program for the information and the protection of consumers, the Commission defined several measures in order to promote consumers' representation (EC Council Resolution of 19 May 1981). But it has been only with the Communication from the Commission of 4 July 1985 (COM(85)314 final, known as "The New Impulse"), that the principle of the "horizontality" of consumer policy has been stated for the first time, strengthening the right of representation of consumers through their own organisations and associations (EC Council Resolution of 23 June 1986), further developed in the Communication of the Commission of 24 October 1986 (COM(86)540 final)



measures, such as the changes introduced in the Consumer Consultative Committee<sup>3</sup>. At the same time “strengthening and increasing consumer representation” was one of the most important priorities for consumer policy for 1996-1998<sup>4</sup>. In the strategy 2002-2006 this priority was put on again in objectives expressed under the titles "proper involvement of consumer organisations in EU policies" and "participation in consultation bodies and working groups".<sup>5</sup>

In almost all Member-States, representation of consumers has also been recognised as a right, starting in the northern European countries, and, little by little, in all southern countries, where traditionally little presence of consumer organised groups existed. In certain countries the right of consumer representation has even been consecrated as a “fundamental right of citizenship” in their Constitutions. And, in all Member-States, although in different ways and by different means, during the 80’s and the 90’s, consumers gained a statute of “quasi” social partner, with the recognition of consumers associations as legal representatives of consumers’ interests and increasing demands of consumers participation in the definition of general and specific policies and even in the management of certain regulators or public services, public enterprises, or even private companies which provide general interest economic or social services. It is well to mention that in industrialized countries like UK, Germany, France, etc. the said need for appearance of consumers organization was more demanding. In some of the recently adhered countries this evolution is still giving its first steps but, in all of them, the role and importance of consumers’ representation is recognized, although not always with the desirable extension and in-depth.

In the last Communication of the Commission on EU Consumer Policy Strategy 2007-2013<sup>6</sup>, consumers representation appears to gain a new emphasis within the objective of “putting consumers at the heart of other EU policies and regulation”, the involvement of interested parties in general in the policy-shaping process being even one of the strands of the Green Paper on

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<sup>3</sup> EC Commission Decision 95/260/EC of 13 June 1995

<sup>4</sup> COM(95)519 final of 31.10.1995

<sup>5</sup> COM (2002)208 final in JO C 137 of 08.06.2002



a European Transparency Initiative<sup>7</sup>. An important step forward has been given with the recent creation and implementation of the Dialogue Group on public health and consumer defence.<sup>8</sup>

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<sup>6</sup> COM(2007)99 final of 13.03.2007

<sup>7</sup> COM(2006)194 final of 03.05.2006

<sup>8</sup> Commission Decisions 2007/602/CE of 5.09.2009 (JO L 234 of 06.09.07) and 2007/793/CE of 29.11.2007 (JO L 320 of 06.12.07)



## MAIN FINDINGS

Consumer representation has two sides: one side is the need to ascertain if consumers' organisations and associations are truly representative of consumers; the other side deals with the effectiveness of representation of consumers interests.

All partners felt that consumers' interests should be represented by free, non-profit, independent and autonomous organisations and associations, irrespectively of their juridical nature or statute. No one defended that consumers' interests would be better represented by governmental or public bodies.

The nature, organisation, functional structure and means of representing consumers' interests differ very much between countries and associations, according to different legal systems and requirements and to diverse historic and cultural traditions, social habits and the economic level of each country. Partners were unanimous in recognizing that there is a lack of knowledge about each one organization at national and EU level and a lack of sound and common statistical data.

Even the quantitative percentage of citizens, members of consumers associations and organizations in proportion of each countries population appeared hard to calculate for several Partners, lacking of sufficient and reliable data. However, and with the exception of three countries represented, it seems that that percentage is, in average, less than 1%. The most impressive exception seems to be Belgium where, according to the respective Partner, almost everybody belongs to one or more consumers associations. Sometimes the numbers for membership might be undermined by the automatic membership of consumer magazine's subscribers.

One of the main preoccupations for proper consumer representation is to ensure that representative bodies are properly financed, at both organisational and operational level.



However, most of the participants were of the opinion that governments, either national or regional, public specialized institutions and the Commission should be active in promoting consumers' representation, not only by creating the legal and administrative environment needed, but also by providing adequate and transparent funding for consumers' associations.

For some partners the governmental or public grants are addressed to support partially the regular functioning of the associations, while others received this kind of funding as a counterpart of specific actions, programmes, contracts, projects and initiatives for training technical staff and providing consumer information or education and towards covering the cost of class actions for defending consumers' general interests, rather than funding the everyday management of these organisations.

In certain new member studies, core funding is deemed to be the crucial question of the consumer organisations, main reasons being: income level of citizens is not enough for paying substantial membership fees; citizens' awareness both as consumers and member of society is not on necessary level yet even to subscribe consumer magazines or pay membership fee; tenders on specific projects need self contribution, and the condition of basic infrastructure should be given to apply for specific goals.

In any case, Partners were of the opinion that public funding should be totally transparent, according to objective and sound criteria, and foreseen and approved in the national or regional budgets. Only two Partners declared that they receive no grants or subsidies of any kind from public entities.

Regardless of the national arrangements in force in each country, a number of consumer representatives feel that only with significant Community support and incentives representative consumer associations will have the resources necessary to play their essential role of defending, promoting and



representing consumers at regional, national, Community and international level.<sup>9</sup>

Nobody was of the opinion that receiving this kind of grants and subsidies would damage the image of independence and autonomy of consumers' organisations. Some, however, felt that being too dependent on governmental funding could leave to certain kind of pressures to do or not to do certain campaigns or defend certain opinions.

Most of the Partners however recognised that, in principle, to be totally independent and free, the receipts from membership fees or other own financial means should represent the most important part of the budget of the associations, although recognising also that sometimes it is very difficult to occur. Some informed that, according to their statute, they were not allowed to ask for membership fees and to be paid for any kind of services they are providing to everybody, irrespectively of being associates. Others informed that according to their national laws, they were not allowed to receive any funds from private sector (only from individual consumers).

One partner, which is not actually an association of consumers, but a foundation putting together some important services, including representation, of several consumers' organisations, and which is almost funded by the national government and other public entities, explained in a very convincing way why, in the peculiar circumstances of its incorporation and functioning this is not an impediment to the freedom an independency of the opinions expressed, after reaching consensus between their associated organisations, and, on the contrary, gaining in synergies and cohesion among the group.

Other conditions and characteristics have been identified in an attempt to define what "representative consumer association" means, namely that it must have legal personality and a right to represent consumers in lawsuits before a court, namely in group actions; it must be non-profit making; its main

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<sup>9</sup> These preoccupations were particularly highlighted and the need to improve better funding of consumer organisations was emphasised in the EESC Opinion 936/2003 of 16 July 2002, on the Proposal of the



statutory objective must be to defend and represent the interests of consumers in general (general interest associations) or to protect and represent its members and consumers or users of specific goods and services (specific interest associations); its governing bodies should be freely elected; it must be independent vis-à-vis political and economic interests, business and business organisations (operating on the supply side of the market) and the “modus operandi” should be democratic.

In addition, all Partners agreed that representative associations should be officially recognised by an authorised public body in the Member-States, according to objective criteria preferably established in the law; however it has also been suggested that support for consumer organisations should be based on their technical qualifications and on the results of their work and not solely on their accreditation by national authorities.

Some of the participants stressed the need that the criteria for the recognition in general terms should be defined at European level, in order to avoid any competition discrepancies between Consumers Organizations.

In order to ensure that organisations representing consumers' general and specific interests properly exercise the consumer's right to representation a number of other important conditions and requirements were identified, at EU level, such as:

- The training needs of managers and trainers of representative consumer associations and organisations, in high technical specific consumer matters, but also for developing language skills, mainly English, French and German;
- In addition to generic information programmes targeting consumers in general, consumer associations and organisations must also be given tailor-made, advance information which they can then pass on to their members or to consumers in general in their respective countries or regions.



- Consumer associations themselves must be better represented in the various Community bodies, either directly or through their umbrella organisations. The Partners welcomed the Commission's recent initiatives to restructure and enforce the ECCG and appoint a Consumer Liaison Officer within DG Competition hoping that this example will be followed in other policy areas affecting consumers, as stated in the Strategy for 2007-2013.
- To organise regularly European consumer “fora”, in order to step up and improve dialogue, information and cooperation between consumer organisations was also suggested. The Commission should finance all inherent travel and participation expenses.
- To profit from the already existing consultative groups at the Commission to get better exchange of information on specialised topics by improving co-ordination and networking procedures between them.

One of the main criticism on the manner as consultation of consumers organisations and meetings or hearings of participative members of consultative bodies are prepared, either at national or at EU level, even in important matters like proposals of regulations or directives or laws and regulations, is the extremely short time given to associations to answer the questions raised, the short time given in meetings with too many people to in depth discussion, and the feeling that in some situations the decisions are already taken and that the consultation is a mere “pro forma”.

Some Partners felt that the same happens in certain cases with the consultations from BEUC with short deadlines and difficulties in finding solution for contradictory positions of single members, despite the recent efforts of improving its system by creating Europe wide positions and making it more transparent on its internal website. Some participants noted, however, that BEUC is only representing a minority of the existing associations (in Italy only one among 16).



In general, Partners that are members of Consumers International felt that, with the inherent limitations of scope, the organization is doing a good job, despite the opinion of certain Partners that its last years activity has been too far from the interest of European consumer organisations; at international level some of the Partners which are members of the TACD and ANEC showed a great interest in their development and have great expectations.

At EU and national levels the Partners have different views about the organisation of the representation of consumers.

However, most of the Partners agreed that:

- They are asked to participate in too many bodies with neither enough staff nor financial means to assure their presence in a useful way (for example, by contracting reliable experts); some, however, in particular from recent adhered countries feel that they are not sufficiently represented in all the organs which they think they should be;
- Most of the times in very specialised Committees they feel that they lack of expertise and knowledge; even those organizations that have expertise and professional staff, too many times they can't use them enough time on documents and works concerning representation because they are fully occupied in regular or national activities of each organization.
- There is a lack of networking where expertise could be shared among associations, even at national level, and opinions and experiences exchanged, and the example of the FIN-USE has been quoted as a good example of a well functioning system;<sup>10</sup>
- Most of the organs and bodies where consumers associations are represented, either at national or EU level, do not function regularly, don't

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<sup>10</sup> See the Commission Paper on "European Information Networks and Outlets for citizens overseen by the European Commission", from the Directorate-General Press and Communication, for rather complete information on the existing networks.



meet enough times, don't give enough time for in-depth discussions, sometimes don't really care about consumer representatives opinions and the share of consumers representatives is very low, compared with professionals or public officials and civil servants;

- The dialogue with representatives of other interests such as professionals or workers is practically inexistent and consumers are not considered as "social partners" like professionals and workers, in the frame of the "social dialogue";
- Some of the Partners ignored the existence and the consultative role of the European Economic and Social Committee (EESC), as representative of the organized civil society and where a few members of Group III (other interests) are consumers' representatives;
- Several Partners do not know/do not use its national representations of the Commission or the European Parliament to have access to information or to lobby and practically ignore the National Permanent Representations in Brussels, or even, when knowing this possibility, they feel difficulties in accessing them or are lack of resources to profit from them;

The main ways of consumers' representation and participation appeared to be, according to the experience and the practice of the Partners, the following:

- Consultation by governments, public authorities, Commission, parliaments, either national and EU, for legislation making;
- Consultation by regulators, and, in exceptional cases, professional associations and private companies for legislation enforcement;
- Membership in regulators, advisory councils in public bodies and companies providing services of general economic or social interest;
- Membership in the standardization processes (product safety);
- Exceptionally (two cases reported) being partners in self or co-regulation Codes of Conduct);



- Even more exceptional, in one case, the participation as member of the management board of certain public hospitals;
- Participation in mediation schemes (mainly in banking insurance and other financial services and in particular helping to solve over indebtedness cases);
- Acting as consumers representatives in ADR schemes and promoting group actions (where possible);
- Leading public campaigns and surveys in consumer matters;
- Directly lobbying members of the Parliament, civil servants, opinion makers;
- Participating in radio or TV programs;
- Promoting and participating in public events like conferences, seminars, fairs;
- Editing magazines, newsletters, leaflets, other publications (books, surveys, etc.);
- Using the websites;
- Teaching consumers' protection in primary schools;

The most common areas of interest for consumers associations, according to the views of Partners are:

- Public health and food chain;
- E commerce;
- Telecommunications and in particular mobile phones;
- Financial services and in particular consumer credit;
- Unfair clauses and practices;
- Product safety;
- Competition;
- Better energy consumption;
- In a reduced scale, sustainable consumption.

Some of the Partners, in particular from the new Member-States, were of the opinion that governments sometimes fear strong consumer organisations and limited sources for supporting consumer organisations can be a means of



dividing associations and making them struggle among them for surviving and not co-operating for the same goals.



## MAIN RECOMMENDATIONS

### **Better knowledge and understanding**

The first question that should be addressed is the lack of knowledge of the present situation of the consumers associations and organisations in the EU, who they actually represent, how they are organised to represent consumers' interests and how effectively they are representing consumers in all the "fora" where such representation is needed and desirable, at national and EU level.

It is therefore highly recommended that the Commission launch a more global study at the level of the 27 Member-States on the situation of the participation and representation of consumers at national and EU levels.

### **Better information and training**

Another important finding is the lack of adequate expertise in the staff of consumers associations and the lack of means for them solely to inform and train their staff or to recruit high-qualified experts in so many technical fields as the ones, which they are dealing on a daily basis.

But it is also recognised that most of politicians, civil servants, even MP's, judges and entrepreneurs are not fully aware of consumer laws and consumer rights and interests.

It is therefore highly recommended that the Commission intensify and develop the training courses in juridical and non-juridical aspects of consumer affairs, with the collaboration of universities and specialised entities in a much larger scale than the one under implementation with the collaboration of BEUC. Some organizations referred the interest also in developing training courses at every Member-State (not only in Brussels), as one way to get lower costs, finding expert people at every country to carry on the trainings. Special attention should be paid to the possibility of transferring competent civil servants from the public sector, for a limited period of time, to work with consumer's organizations.



**Better funding**

A common problem for all consumers associations in order to assure proper representation of consumers' interests is the need of more financial support.

Irrespectively of several interesting suggestions that were made by the Partners, at national level – like putting in common certain services, as it is done in Belgium, or trying to get a percentage of the fines applied by courts or administrative authorities for unfair competition or unfair practices or following group action decisions – a special recommendation is made to the Commission in order to review the system of funding of consumers associations' activities, campaigns and projects and to seek a special provision specifically for representation purposes.

Furthermore it has been stressed that the Commission should not only re-activate the yearly call for proposals for specific projects but also ensure continuity to the projects implemented, request a lower co-financing percentage for the associations, smaller partnerships and simpler bureaucratic procedures.

**Better cooperation among consumers associations**

It appeared very clearly from the questionnaires and the discussion that most of the consumers associations do not collaborate usually between them, not only at EU level, but also even among them, at national level.

One of the Partners suggested the creation of a European association representing effectively the majority of consumers associations in Europe, based on the so-called "social-consumerism", connected to the protection also of disadvantaged groups, environmental safeguard, responsible consumption, prevention and awareness-raising, etc.

It is thus recommended that the Commission study, organize and implement networks all over Europe, in the most relevant aspects of consumers interests, in order to facilitate the collaboration and the cooperation of



consumers organizations, namely the creation of region-specific networks (such as among Mediterranean countries).

### **Better access to the decision-making centres**

One of the most important complaints of the Partners was the lack of means and knowledge to accede to the right people and to participate in the right “fora” where decision are made, in due time before the decisions are taken in order to represent adequately consumers’ interests.

It is therefore recommended that the Commission eases the way of consumers associations, making transparent the decision making processes and informing in advance and giving the possibility of consumers’ representatives to participate in an effective way in all EU policies which affect consumers’ interests, thus making horizontality become true.

### **Better functioning of the ECCG and other Committees and “fora”**

Doubts were expressed towards the way that ECCG is operating, its efficiency and the absence of in-depth discussion<sup>11</sup>; the same criticism was extended to several Committees where consumers associations participate and to the hearings organised by the Commission – too many people, too long agendas, too little time for discussion – instead of dialogue it is a succession of monologues.

It is highly advisable that the Commission seeks to render the meetings more participative in order to assure the effectiveness of consumers associations participation, creating the conditions for a fruitful dialogue between participants

### **Better visibility of consumers’ associations**

Although recognizing the efforts of the newly appointed Commissionaire Kuneva and welcoming the separation of consumer affairs and public health,

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<sup>11</sup> A good résumé of the feelings of consumers organisations about the functioning of the ECCG can be found in the Minutes of the meeting of ECCG of 19.09.2007 (ECCG 2007 073), point 3, by Veronique Arnault.



one of the main complaints of the Partners was that the consumers' movement and the consumers' associations are not sufficiently known and visible either at national or at EU level.

From an organizational point of view it looks that consumers protection would gain if, following the existence of two Commissionaires, a specific DG for consumers was created in the organics of the Commission; it appears that, if this was the case, more personnel and financial means could be allocate to consumer protection and thus making more visible the impact of consumer policy.

Besides a better coordination between the new DG and the consumers' organization and among them could render more visible and known the role and the importance of consumers representation.

Certain Partners suggested the possibility of profiting from the commemorations of the 15<sup>th</sup> March each year to give a more positive image of consumers associations, by defining a common theme to be discussed all over Europe in all countries at the same time and with the EU institutions – Parliament, Commission and EESC.

#### **Better representation of consumers' collective interests**

Most Partners expressed the opinion that collective consumer interests in cross border transactions should be defended by giving the possibility to consumers' association to represent them in law suits to get compensation for the damages suffered.

It is thus recommended that the Commission, after receiving the series of studies already announced on this matter, prepare a proposal for a group action at EU level, giving the possibility of consumers' associations of representing consumers

#### **Better dialogue between consumers' organisations and professionals**

As mentioned by certain Partners, the dialogue between consumers and professionals in order to implement Codes of Conduct on the basis of co-



regulation is not very frequent, and the advantages and real consequences for consumers of co-regulation are not enough known and evaluate.

Some Partners thus recommend that the Commission define the means of promoting co-regulation in more effective terms and providing for the necessary expertise and financial means.

### **Better representation of consumers in the EESC**

Although existing since the initial Treaty of Rome, the EESC, where consumers may have the same representation as professional and workers, depending on the will of Member-States and the lobbying power of consumer organisations, is not enough known by them and their representation is minimal in the context of other organisations represented in Group III (other interests).

We would therefore stress the Commission to make more known the possibility of consumers associations to indicate their representatives to integrate the EESC, explaining its role and importance in the legislative process as an advisory body, which represents the organised civil society.



## CONCLUSIONS

The main objectives of the Project seem to have been attained. There was a fruitful discussion and a deep exchange of opinions and experiences between the Partners, reaching objective findings and sustainable recommendations.

A better knowledge about existing conditions of consumer associations' representation was achieved; however it is deemed that further and more in-depth study, analysis and common statistical data are necessary to have a more complete picture of the overall situation in all Member-States.

In particular, the presence of consumer associations in advisory bodies, management boards, commissions, committees and working groups at national and European level has been identified and evaluate; the result is not deemed to be the most flattering to the consumer associations' capacity to represent consumer interests.

Several proposals were made in order to contribute to define appropriate national and European strategies to guarantee a high level of consumer representation; however more discussion with other organisations in all Member-States is desirable to get as more contributions as possible.

Most of the findings showed that Partners are aware of the need for more participation and commitment of consumers' associations on consumer policies at national as well as European level; however it has been unanimously recognised that consumers' organisation lack of expertise, staff and financial means to be more active in representing consumer's economic, social and cultural interests.

An important step was given to improve dialogue among consumers' associations; however this should be envisaged as a continuous task and more efforts should be made to promote dialogue between consumers' organisations and other European organisations of civil society about the future of EU and its consumers' policies, in the framework of the new Treaty.



The information gathered is deemed to be sufficient to allow a preliminary diagnosis about consumer association's difficulties, handicaps and failure, which hopefully will help national authorities and the Commission in designing and improving new strategies for consumer policies.



Lisbon, 18 January 2008

