

Perspectives of representation actions for the protection of the collective interests of consumers in the Republic of Moldova. Transposition of Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020

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Perspectives of representation actions for the protection of the collective interests of consumers in the Republic of Moldova. Transposition of Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020

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1. Introduction

Globalisation and digitalisation have increased the risk that many consumers will be affected by the same illegal practice, which can harm consumers. Consumer confidence in the internal market decreases in the absence of effective means to put an end to illegal practices and to obtain compensation for harm to consumers.

The absence of effective means of enforcing Union consumer law could also lead to distortions of fair competition between non-compliant traders and those who comply at national or cross-border level. Such distortions may affect the proper functioning of the internal market.

The procedural mechanisms for representative actions, for both injunctions and remedies, vary across the Union and offer consumers different levels of protection. Currently, the Republic of Moldova has a common collective redress procedure regulated by the Code of Civil Procedure¹, but does not have any procedural mechanism applicable to collective redress for consumers (see clarification in paragraph 3). This weakens consumers' and businesses' confidence in the internal market and in their ability to function in the internal market.

A representative action should be an effective and efficient way of protecting the collective interests of consumers. It should enable qualified entities to act to ensure traders' compliance with relevant consumer protection provisions and to overcome obstacles faced by consumers in individual actions, such as:

- obstacles related to uncertainty about their rights and the procedural mechanisms available;
- psychological reluctance to act, and
- negative outcome of balancing the expected costs and benefits of the individual action.

In addition, the introduction of uniform collective redress mechanisms at European and Moldovan level could ensure a higher degree of protection for consumers. This could create a coherent and effective legal framework that would allow consumers in different Member States to exercise their rights in a similar way and obtain adequate compensation for the damage suffered. This would help to strengthen consumer confidence in the internal market and create a level playing field for all traders.

It is also essential to ensure that entities qualified to initiate representative actions are well-informed and equipped with the necessary resources to act in the interest of consumers. These entities should benefit from adequate legal and financial support to face legal and administrative challenges. By strengthening the capacity of these entities, it can be guaranteed that consumers' interests are efficiently protected and that illegal commercial practices are appropriately sanctioned.

¹ The Code of Civil Procedure contains general provisions on the introduction of civil lawsuits: civil proceedings may be initiated on behalf of persons empowered by law to defend the rights, freedoms and legitimate interests of another person, of an unlimited number of persons, of the interests of the Republic of Moldova and of society. (art. 7 para. 2); Initiation of legal proceedings for the defence of the rights, freedoms and legitimate interests of other persons (Art. 73)

2. State of play in the EU and Moldova: benefits and challenges

2.1. Overview of representation actions in the EU

Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions with regard to the protection of consumers' interests ² (repealed) allowed qualified entities to bring representative actions aimed primarily at stopping or prohibiting breaches of Union law that harm the collective interests of consumers, and it was necessary to strengthen procedural mechanisms for the protection of collective interests of consumers, including injunctions and remedies. In June 2020, the European Parliament and the Council of the European Union reached an agreement on a new directive on representative actions for the protection of the collective interests of consumers. Directive 2020/1828 on representative actions replaced Directive 2009/22/EC. On 24 November 2020, Parliament approved the final version of the directive.

The objective of the Representative Actions Directive (EU) 2020/1828 is to ensure that consumers can protect their collective interests in the EU through representative actions and legal proceedings initiated by representative entities (so-called qualified entities). It is expected that all EU countries will have a mechanism for requests for representation. The Directive improves consumers' access to justice while providing adequate safeguards to avoid abuse of procedural powers.

Representative actions are actions brought by qualified entities before national courts or administrative authorities on behalf of consumer groups to seek injunctions (i.e. to put an end to an illegal practices of a trader, similar to those provided for in Directive 2009/22/EC on injunctions), damages (e.g. repayment, replacement, repair) or both.

EU Directive 2020/1828 introduces significant changes to collective redress in the field of consumer protection, covering various sectors, such as:

- general consumer rights;
- product information;
- Transportation
- health care and
- financial services.
- and other areas covered by Annex 1 to EU Directive 2020/1828

It empowers non-profit 'regulated entities' in the Member States to represent consumers in disputes, either through established organisations or through ad hoc panels, ensuring wider access to justice. These representative entities can seek various remedies, including the cessation of unfair practices and compensation for affected consumers. Importantly, the Directive facilitates cross-border litigation by allowing actions initiated in one Member State to have implications in several jurisdictions, ensuring consistency and efficiency of consumer protection.

² Expiry date: 24/06/2023; repealed by [32020L1828](#)

Consumers have the option of opting out or not being represented in disputes, providing flexibility in court proceedings. In addition, the Directive lays down obligations for both parties to present evidence, promoting fairness and transparency in judicial proceedings.

To address potential conflicts of interest, the Directive regulates third-party litigation funding, ensuring impartiality and integrity in judicial proceedings. It also addresses specific issues such as the protection of personal data and environmental concerns, highlighting the broad scope of consumer protection covered by the Directive.

For businesses, the Directive poses challenges in managing increased dispute resolution risks and adapting processes to effectively address consumer complaints. Proactive measures are needed to prevent harmful practices and mitigate the financial and reputational risks associated with consumer disputes.

2.2. Main novelties of EU Directive 2020/1826:

- The introduction of representative actions allowing qualified entities, such as consumer organisations or public bodies, to represent consumers affected by the same illegal practices of traders.
- Consumers will benefit from remedial measures, including compensation, repair, replacement, price reduction, termination of the contract or refund of the price paid.
- Repeal of the Injunctions Directive (2009/22), extending the scope of representative actions to include measures to stop or prohibit illegal practices in different economic sectors and services.

Overall, the Directive aims to strengthen consumer rights by providing accessible and efficient dispute resolution mechanisms and holding businesses accountable for unfair practices, ultimately promoting a fairer and more transparent market.

2.3. Assessment of the current state of consumer protection mechanisms in Moldova and the need for representation actions.

From a technical legal perspective in the Republic of Moldova on consumer protection, the Gap Analysis carried out on EU Directive 2020/1828 in parallel with the examination of the national legal framework reveals significant shortcomings³. Despite the existence of legal rules designed to represent the collective interests for consumer protection, these rules are fragmented in both general and specialised legislation. Consequently, the legal framework fails to ensure the harmonisation and specificity required by EU Directive 2020/1828, in particular as regards the establishment of qualified entities for the collective representation of consumers.

Even if, according to the Consumer Protection Strategy for 2013-2020, Directive 2009/22/EC of 23 April 2009 was one of the indicators on the transposition of EU consumer protection legislation in the

³ Report on the evaluation of the national legal framework compared to EU Directive 2020/1828 on representative actions for the protection of the collective interests of consumers, of 6 July 2023

Republic of Moldova, it is found that it was not transposed according to the proposed terms⁴. In addition, the analysis indicates⁵ a lack of effective implementation of representation actions, especially those involving the Inspectorate for the Protection of Consumer Interests (ISSPNPC).⁶ On the one hand, there is a legal provision in Law 105/2003, Article 31, on actions for the protection of consumer rights, according to which *actions for the protection of consumer rights may be submitted to the court by the consumers themselves or their representatives, by the competent public administration authorities or by public consumer associations* (paragraph 1) and *Bodies empowered with consumer protection functions may represent consumers' interests in court for the purpose of protecting consumers' rights* (para. 3).

On the other hand, even if the ISSPNPC had legal competence, according to judicial practice, the ISSPNPC did not initiate any action representing the interests of consumers. In addition, the absence of representation actions from the ISSPNPC underlines the inadequacy of the rules governing consumer protection collective redress under existing legislation.

In addition, the existing rules in the Code of Civil Procedure (CPC) address procedural issues related to representative actions, but do not contain specific guidelines for dealing with collective representation actions aimed at protecting the collective interests of consumers. This legislative vacuum undermines the effectiveness of consumer protection mechanisms in Moldova and requires urgent reforms to align national legislation with EU standards and ensure comprehensive consumer protection through harmonised and specialised legal frameworks.

Although the Republic of Moldova already has consumer protection rules that are divided into both common law and special legislation, the cases settled with the participation of the ISSPNPC and pending in court, demonstrate that it is difficult to ensure full compliance with these rules in practice, without standardization and specialization of the rules on collective consumer protection actions in specific legislation and equally.

2.4. The need for a new law on the collective representation of consumers' interests in the Republic of Moldova are:

- a) The specific legal framework that allows for the collective representation of consumers' interests;
- b) Institutional framework to enable qualified entities to represent consumers effectively;
- c) Strengthened consumer protection mechanisms to overcome obstacles encountered in individual actions.

Taking into account the analysis of the existing situation in the field of consumer protection in the Republic of Moldova, the full spectrum of problems (social, administrative, judicial) could be highlighted in the following findings:

⁴ Annual Report (2018) of the Ministry of Economy and Infrastructure on the evaluation of the implementation of the Action Plan for the second period 2017-2020 on the Consumer Protection Strategy for 2013-2020, <https://mded.gov.md/domenii/infrastructura-calitatii/rapoarte/>

⁵ Report on the evaluation of the national legal framework compared to EU Directive 2020/1828 on representative actions for the protection of the collective interests of consumers, of 6 July 2023

⁶ Art. 31 of Law no. 105/2003 on actions in the field of consumer rights protection, (3) The bodies empowered with consumer protection functions may represent the interests of consumers in court for the purpose of protecting consumer rights.

a) High level of economic damage caused by transactions with consumers

From the analysis carried out in the Republic of Moldova for the period 2013-2020, it is found that the main impediment faced by consumers is the high risk, estimated at about 80%,⁷ of suffering damages as a result of economic transactions. This situation leads to significant obstacles to maximising utility for consumers, with an exclusive focus on maximising profit by professionals, including through undue enrichment. In this context, there is an inefficient distribution of resources within society, which leads to a decrease in the potential of consumers to influence the creation of a market oriented towards perfect competition, characterised by maximum diversification of products and services and the maintenance of low prices.

Approximately, according to the data reflected in the analysis of options, it can be seen that consumers annually record losses of at least 3 billion lei due to the high risk of harmful transactions⁸. These losses are caused by unfair commercial practices, unfair contract terms, misleading advertising and other types of inappropriate behaviour by traders, which directly affect the interests and rights of consumers.

Apart from the 2018 report, no other data on consumer complaints were made available. In order to obtain up-to-date and accurate information, it is reasonable to assume that the ministry may hold such data in its internal reports and could share it upon request. The ISSPNPC report for the most recent year (2023) confirms that no legal action has been taken in favour of consumers and there is a lack of classification of complaints on data protection, financial services, travel and tourism, as well as energy and telecommunications.

The adoption of a new legal framework for representative actions in the field of consumer protection would represent an important step in strengthening their rights and protection in the Republic of Moldova, contributing to increasing the efficiency of the internal market and ensuring fair and transparent competition.⁹ - **A specific legal framework is needed to allow for the collective representation of consumers' interests.**

b) Ineffective recovery of damage caused

There is an urgent need in the Republic of Moldova to establish an institutional structure that would allow qualified entities to represent consumers effectively. This requirement stems from the finding that consumers currently have few effective alternatives to recover the damage caused. The judicial system often proves to be costly and extremely slow, especially in the case of relatively small pecuniary damages. In addition, alternative procedures for the recovery of damages, outside the judicial system (judicial mediation introduced in 2017 and repealed in 2023), are either non-existent or insufficiently functional.

⁷ Annual Report (2018) of the Ministry of Economy and Infrastructure on the evaluation of the implementation of the Action Plan for the second period 2017-2020 on the Consumer Protection Strategy for 2013-2020

⁸ Ibid

⁹ Ibid

This situation puts the consumer in a position of vulnerability in relation to the professional, who, in the end, has control over the process of recovering the damage. Often, the consumer is left to the discretion of the professional, and the chances of recovering the damage are reduced, especially in the context of a low and defective level of competition in many markets.

In order to remedy this situation and ensure more effective consumer protection, it is necessary to establish an institutional structure to facilitate consumer representation before the competent authorities and courts. This structure should provide consumers with access to the necessary means to protect their interests and recover damages in an efficient and fair manner.

It is therefore essential for the Republic of Moldova to develop a robust institutional framework that allows qualified entities to act on behalf of consumers and provides them with the necessary support to achieve recovery where they have suffered harm due to unfair or abusive commercial practices. This would help increase consumers' confidence in the market and ensure a better balance between their rights and the interests of economic operators – **There is a need for an institutional framework that allows qualified entities to represent consumers effectively.**

c) Unsatisfactory level of security (harmlessness) of the products and services provided

In the Republic of Moldova, the unsatisfactory level of security and safety of products and services is a major concern for consumer protection. In many cases, public authorities find it difficult to guarantee this vital aspect of consumers' quality of life. The quality infrastructure system, which should ensure high standards of quality and safety of products and services, is often deficient in both regulatory and institutional frameworks.

As regards collective consumer representation, it is clear that there is an urgent need to improve consumer protection mechanisms in order to overcome the obstacles faced by consumers in their individual actions. For example, in some situations, the relatively low value of the defective product (e.g. milk priced at RON 20) sold through unfair commercial practices (such as the 'buy 2, third free' offer that turns out to be expired) may not motivate consumers to take individual legal action to obtain compensation for the non-material damage suffered.

Legislative and institutional reforms are essential to strengthen consumers' ability to make their voices heard and to obtain redress or redress if they suffer harm due to inappropriate products or services that affect their collective interests.

By adopting such measures and improving consumer protection mechanisms, the Republic of Moldova can contribute to increasing market confidence and ensuring a safer and fairer trading environment for all its citizens. These efforts should be based on an integrated and coordinated approach between public authorities, the private sector and civil society, in line with the principles and values of the rule of law and consumer protection – **It is necessary to strengthen consumer protection mechanisms to overcome the obstacles encountered in individual actions.**

2.5. Benefits of the new law

In the economic and legal context of the Republic of Moldova, the introduction of a new legal framework for representative actions in the field of consumer protection could bring several benefits:

- Such a legal framework would strengthen consumer rights and provide qualified entities with effective means to bring representative actions on behalf of consumers, and would give consumer protection authorities strengthened powers to impose sanctions to combat unfair commercial practices, thereby helping to increase confidence in the internal market and protect the collective interests of consumers.
- Through representation actions, consumers could obtain appropriate remedies for the harm suffered, including financial compensation, repair or replacement of defective products, price reduction, or termination of contract, and will bring more fairness for consumers, not more work for law firms. At the same time, tougher penalties linked to companies' annual turnover will eventually give consumer protection authorities the means to punish cheaters harshly.
- The legislative reform could allow consumers to take collective action against unfair commercial practices, thus facilitating access to justice and balancing the balance between consumers and traders.
- This amendment could encourage compliance with high consumer protection rules and standards and help improve the business environment by eliminating unfair behaviour and promoting fair and transparent competition by creating *a fairer single market that benefits consumers and businesses*.

3. Assessment of compatibility with the Civil Code, the Code of Civil Procedure and other relevant legislation to ensure the alignment and effectiveness of the new law.

The introduction of a new legal framework, such as the new law transposing EU Directive 2020/1828, must take into account the existing provisions of the Civil Code, the Civil Code and other relevant normative acts to ensure the coherence and effectiveness of consumer protection regulations. Analysing the Directive in the light of specific articles of the Civil Code, certain findings are established as to their compatibility with regard to the potential impact on consumers' rights and obligations.

3.1. Provisions of the Civil Code on consumer protection compared to the provisions of Directive 2020/1828

Directive 2020/1828 brings some significant changes and additions in the field of consumer protection, which can be compared with the provisions of the Civil Code in the same field.

a) Consumer rights and remedies:

- Directive (EU) 2020/1828 lays down specific ways to remedy infringements of consumer rights through representative actions. It gives consumers the opportunity to take legal action or through a qualified entity to claim compensation for the violation of their collective rights.
- By comparison, the Civil Code (Articles 16, 863, 880, 908, 935, 1166, 1130) provides for general remedies for the protection of civil rights, but does not include specific provisions for collective redress actions in the interest of consumers.

b) Information and transparency:

- Directive (EU) 2020/1828 requires Member States to ensure the provision of clear and accessible information on representation actions and their results, in order to enable consumers to express their consent to be represented.
- By comparison, the Civil Code includes provisions on consumer information in contracts (Article 2620), but does not address in detail issues related to collective redress and specific information in this regard.

c) Sanctions and assistance for qualified entities:

- Directive 2020/1828 provides for effective and dissuasive penalties for failure to comply with or refusal to comply with injunctions or obligations to provide information. It also offers the possibility to provide assistance to qualified entities with procedural costs and access to legal aid.
- By comparison, the Civil Code does not include specific provisions on penalties for breaches of consumer rules or financial assistance to entities acting in the interest of consumers.

Directive (EU) 2020/1828 complements and improves consumer protection by introducing specific collective redress mechanisms and ensuring transparency and access to justice in these cases. While the Civil Code provides a general basis for the protection of civil rights, the Directive adds specific and detailed aspects of consumer protection in the context of representative actions, stressing the need for alignment and coherence of legal frameworks to ensure robust consumer protection mechanisms and to respect fundamental rights and obligations in commercial transactions.

Even though the Civil Code provides for common rules on remedies, a key aspect is that specific remedies are needed to overcome the obstacles faced by consumers in their individual actions.

3.2. Provisions of the Code of Civil Procedure relating to the provisions of Directive 2002/1828

Comparing the provisions of the Code of Civil Procedure of the Republic of Moldova with Directive 2020/1828 from the perspective of the need to transpose it into a new law, several aspects can be highlighted:

a) Participants in the trial:

- The Code of Civil Procedure of the Republic of Moldova defines trial participants as parties, interveners, prosecutors, petitioners and other persons empowered to make claims in defence of the rights and legitimate interests of others.
- Directive 2020/1828 introduces ordinary non-profit entities to represent consumers in consumer protection disputes, providing a broader perspective on the participants in the process.

b) Filing a civil lawsuit:

- Both documents provide for the possibility of filing civil lawsuits on behalf of other persons or an unlimited number of persons, but under certain conditions.
- While the Code of Civil Procedure of the Republic of Moldova mentions that lawsuits can be brought on behalf of other persons under other laws, Directive 2020/1828 provides a specific framework for entities that can represent consumers in consumer protection disputes.

c) Jurisdiction of the courts:

- The Code of Civil Procedure of the Republic of Moldova sets out criteria for the jurisdiction of courts in cases with a foreign element, such as the defendant's registered office or the applicant's domicile.
- Directive 2020/1828, on the other hand, addresses issues relating to the jurisdiction of courts in cross-border collective disputes between consumers and sellers or suppliers from different countries.

d) Final and irrevocable court decisions:

- Both the Code of Civil Procedure of the Republic of Moldova and Directive 2020/1828 regulate aspects related to court decisions and their enforcement, but with a different focus.
- The Code of Civil Procedure of the Republic of Moldova sets out the conditions under which court decisions become final and irrevocable, while Directive 2020/1828 focuses on the recognition of judgments in other Member States of the European Union and their de jure application in those States.

Collective actions for consumer protection in court are possible under civil procedural law, in accordance with Articles 7, 55, 73, 460 of the Code of Civil Procedure. However, judicial practice highlights a small number of cases in which consumers initiate such actions¹⁰. As for the competent courts for these actions, they generally include ordinary civil courts, such as ordinary courts, the Court of Appeal and the Supreme Court of Justice of the Republic of Moldova. Thus, consumers have the possibility to file collective claims and actions in the courts to obtain compensation for the damages or violations suffered collectively, in accordance with established legal procedures.

3.3. Alignment with Directive 2020/1828 and the effectiveness of the new law

Directive (EU) 2020/1828 introduces a detailed and specific framework for the designation, monitoring and assistance of qualified entities in representation actions for the protection of consumer interests. These aspects are not similarly regulated by the Civil Code, the Code of Civil Procedure, Law no. 105/2003 on consumer protection and other relevant acts, which require the transposition of Directive 2020/1828 by adopting a new law to be implemented in the Republic of Moldova, in particular on:

- Qualified entities:** specific framework for the designation and recognition of qualified entities that can bring representative actions for the protection of consumers' interests.
- Criteria for the designation of qualified entities:** establishing clear criteria for the designation of qualified entities, including requirements relating to actual public activity in the areas of consumer protection, non-profit purposes, independence from traders and the provision of detailed information on the entity's activity.
- Information and monitoring of qualified entities:** registers and provides the European Commission with a list of designated qualified entities and ensures that it is updated every five years.

¹⁰ Only 0.001% of all civil cases are related to the defense of consumer rights.¹⁰ Criminal cases in the field of consumer protection are also very few and no statistics are kept for them. This demonstrates the minimal role of the judiciary in defending consumer rights, according to the Annual Report (2018) of the Ministry of Economy and Infrastructure that evaluates the implementation of the Action Plan for the second period 2017-2020 on the Consumer Protection Strategy for the years 2013-2020

- d) **Financing representation actions:** preventing conflicts of interest in the financing of representation actions and ensuring that consumers do not pay the costs of the proceedings.
- e) **Assistance to qualified entities :** taking steps to ensure that court costs do not prevent qualified entities from effectively exercising their right to seek redress.

The transposition of Directive 2020/1828 (RAD) assimilated from the implementation of similar measures in other European countries should also be considered,¹¹ adapting them to the specifics and needs of the Republic of Moldova (see Annex 1 – RAD document on the practice of other countries).

4. Analysis of the administrative and judicial preparation for the implementation of the new law.

4.1. Existing institutional framework

Currently, Law no. 105 of 13 March 2003 on consumer protection determines the basic institutional system for the protection of consumer rights. Chapter VI of this law delimits three basic categories of institutions involved in the protection of consumer rights and, consequently, in its application:

- Central public administration authorities with responsibilities in the field of consumer protection (including the Ministry of Economic Development and Digitalization (MDED), the State Inspectorate for the Supervision of Non-Food Products and Consumer Protection (ISSPNPC) and the Coordinating Council for Consumer Protection);
- Other public administration bodies empowered with consumer protection functions (with reference to authorities in the fields of consumer life and health protection, transport, construction, tourism, energy, telecommunications, insurance and banking services);
- Local public administration authorities and public consumer associations are classified into distinct categories.

The functions and attributions in the field of consumer protection are established for the three types of entities in art. 27-30 of Law no. 105 of 2003, as well as in the specialized laws for each public administration authority in its segment of activity.

Taking into account the assigned functions and the level of involvement in the consumer protection activity, as well as the provisions of the legislative framework, we could divide the entities concerned by consumer protection into three distinct categories:

A. Entities established or primarily concerned with consumer protection

1. Ministry of Economic Development and Digitalization
2. State Inspectorate for the Supervision of Non-Food Products and Consumer Protection
3. Consumer Protection Coordination Council
4. Public associations for consumer protection

¹¹ **Romania** - Law no. 414/2023 on the conduct of representative actions for the protection of the collective interests of consumers

Denmark – [Lov om adgang til anlæggelse af gruppesøgsmål til beskyttelse af forbrugernes kollektive interesser](#)

Ireland - [Representative Actions for the Protection of Consumers' Collective Interests Act 2023](#)

Italy – Transposition of Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC.

Cyprus - [Ο περί της Έκδοσης Δικαστικών Διαταγμάτων και Καταχώρησης Αντιπροσωπευτικών Αγωγών για την Προστασία των Συλλογικών Συμφερόντων των Καταναλωτών Νόμος του 2023.](#)

B. Entities that are empowered by law with consumer protection in their field of activity

- Ministry of Health - in the field of consumer life and health protection;
- Specialized body of the central public administration in the field of transport - in the field of interurban and international transport;
- the central public administration body specialized in construction - in the field of construction;
- Ministry of Culture - in the field of promoting tourism policy;
- State Inspectorate for the Supervision of Non-Food Products and Consumer Protection (activity control) - in the field of consumer protection (general field);
- National Commission for Financial Market - in the field of financial market;
- National Agency for Food Safety - in the food sector, at all stages of the food chain;
- Agency for Medicines and Medical Devices - in the field of medicines, pharmaceutical and parapharmaceutical products, medical devices and other products and services made available to consumers by pharmaceutical enterprises and units;
- National Motor Transport Agency - in the field of interurban and international transport;
- National Inspectorate for Technical Supervision - in the field of industrial safety and constructions;
- National Energy Regulatory Agency - in the fields of energy, water supply and sanitation;
- National Agency for Public Health – in the field of services provided by medical service providers;
- The control body in the field of consumer protection, according to the field of competence, according to art. 29 of Law no. 105/2003 on consumer protection - in the field of unfair commercial practices;
- Local public administration authorities in the field of consumer protection (town halls) – in the field of local transport, communal services, activities for which, in accordance with the legislation, they grant authorizations.

C. Entities involved in consumer protection within the limits expressly established by law in this field

1. Judicial system (courts and bailiff system)
2. Lawyers and/or mediators (including in the context of Law no. 134 of 2007 on mediation)
3. Educational institutions (in terms of consumer education)

4.2. Brief analysis of the institutional system and its functional aspect in case of adoption of the new law

The following is a brief analysis of the functionality of the entities in the institutional consumer protection system under the conditions of the adoption of the New Law transposing Directive 2020/1828, taking into account the attributions conferred by the law, the expected level of involvement and dedication and the specificity of their activity. The analysis is divided into three basic directions of activity, based on the priorities of Directive 2020/1828 in this area:

1. Ensuring rights and remedies;
2. Supporting qualified entities (record keeping, funding and assistance to qualified entities);
3. Ensuring the information and education of consumers regarding the qualified representative entities.

	Entity/Authority	The expected level of involvement and functionality for the new law	Existing level of engagement and functionality	Comments
1	Ministry of Economic Development and Digitalization / MEDD	Enforcement and redress		Evidence, the stimulation of NGOs to represent the interests of consumers unrealized. Lack of human and financial resources in terms of record-keeping, financing and assistance for qualified entities The impact of the information is quite small, due to the lack of coverage and coherence of efforts. There is no clear information policy to determine the objectives and indicators, as well as the planning.
		Maximum	Minimum	
		Support for qualified entities		
		Maximum	Minimum	
		Provision of information and education		
2	State Inspectorate for the Supervision of Non-Food Products and Consumer Protection / ISPNPC	Enforcement and redress		Reduced coverage compared to the estimated risk of injurious transactions, in terms of ensuring product safety and applying corrective measures. There are no actions for collective representation of consumers by ISPNPC, although Law 105/2003 provides for this competence. Low consumer confidence and information about the duties of the institution concerned.
		Maximum	Minimum	
		Support for qualified entities		
		Maximum	Minimum	
		Provision of information and education		
3	Coordinating Council for Consumer Protection	Enforcement and redress		It did not meet in lucrative meetings, which would have had the effect of contributing directly to the level of protection of consumer rights.
		Average	Minimum	
		Support for qualified entities		
		Average	Minimum	
		Provision of information and education		
4	Public associations for consumer protection	Enforcement and redress		Low level of direct participation (consumer assistance) in the mediation and amicable dispute resolution process. Small number of associations with low coverage. Splitting into segments and domains was not detected (to cooperate and streamline impact). Low interest from consumers in existing associations or in the creation of new ones.
		Average	Minimum	
		Support for qualified entities		
		Average	Minimum	
		Provision of information and education		
		Maximum	Minimum	

5	Authorities that are empowered by law with consumer protection in their field of activity	Enforcement and redress		<p>Reduced coverage compared to the estimated risk of injurious transactions, in terms of ensuring product safety and applying corrective measures.</p> <p>Minimum consumer confidence and information on the obligations of the institutions concerned.</p> <p>As regards the provision of information on the competence segments, there is no coherence and planning in actions.</p>
		Average	Minimum	
		Support for qualified entities		
		-	-	
		Provision of information and education		
Average	Minimum			
6	Judiciary	Enforcement and redress		<p>Only 0.001% of all civil cases are related to the defense of consumer rights.¹² Criminal cases in the field of consumer protection are also very few and no statistics are kept for them. This demonstrates the minimal role of the judiciary in defending consumer rights.</p> <p>The initiative to complete the training plan for judges with compulsory discipline is recommended: Consumer Protection Law</p>
		Maximum	Minimum	
		Support for qualified entities		
		-	-	
		Provision of information and education		
-	-			
7	Lawyers and mediators	Enforcement and redress		<p>Less than 1% of consultancy services fall within the field of consumer protection, of which even fewer end up in court, largely due to delays on the part of consumers¹³.</p>
		Average	Minimum	
		Support for qualified entities		
		-	-	
		Provision of information and education		
Average	Minimum			
8	Educational institutions	Enforcement and redress		<p>Within the primary and secondary education system there are study programs, but there are no compulsory courses in this field. No study programs have been developed within the university system.</p> <p>It is recommended to take the initiative to complete the curriculum at the bachelor's level with compulsory subjects: Consumer Protection Law</p>
		-	-	
		Support for qualified entities		
		-	-	
		Provision of information and education		
Maximum	Minimum			

¹² Annual Report (2018) of the Ministry of Economy and Infrastructure on the evaluation of the implementation of the Action Plan for the second period 2017-2020 on the Consumer Protection Strategy for 2013-2020

¹³ Ibid

Currently, in the Republic of Moldova there is an insufficient number of NGOs active in the field of consumer protection that could contribute to solving a number of problems and deficiencies in terms of ensuring the rights and protection of consumers' interests.

1. **NGO Center for Consumer Protection:** This NGO, led by Denis STAROȘ, seems to focus on protecting the rights of contractors, probably those involved in construction or similar industries. However, the email address provided appears to be a personal one, which may indicate the need for more formal contact information for organizational purposes.
2. **NGO Henri Capitant Association of Legal Culture, Moldova:** This association led by Olesea PLOTNIC, seems to have a broader focus on legal culture, including consumer rights. The association runs several websites, suggesting a robust online presence for disseminating information and providing resources related to consumer protection and legal education.
3. **NGO League for the Defense of Consumer Rights:** Under the leadership of Roman MIHĂEȘ, this league focuses specifically on the defense of consumer rights. However, like the NGO Consumer Protection Center, the email address provided appears to be a generic one, potentially lacking organizational context.

Based on a quick analysis on the internet, it is found that there is no up-to-date list of NGOs with active roles in consumer protection, which highlights a significant gap in the current regulatory framework. While the MEDD is responsible for consumer protection policy, the lack of an up-to-date list suggests the need for clearer regulations that impose the responsibility of the MEDD to preserve and update such records. Without a comprehensive and up-to-date list, it becomes a challenge for stakeholders, including government agencies and consumers themselves, to collaborate effectively with relevant NGOs and access the support and resources they offer, especially in relation to collective representation actions.

4.3. Identifying potential consequences for the administration, the judiciary and the need for new institutions or reorganisations.

Following a brief analysis of the institutional system and its functional aspect, MEDD and ISSPNPC assess the expected level of involvement and maximum functionality in the context of the adoption of the New Law transposing Directive 2020/1828, namely:

1. Granting of rights and remedies:

- The MEDD and the ISSPNPC should have the responsibility to ensure respect for consumer rights and to implement remedies in accordance with the new legislative provisions.
- Its tasks and the ISSPNPC would include monitoring and verifying compliance with consumer rights, as well as facilitating collective representation actions in the event of infringements of those rights.
- The Ministry would coordinate and support the activities of qualified entities in terms of actions in representation for obtaining remedial measures.

2. Supporting qualified entities:

- The MEDD would be responsible for the registration and recognition of entities qualified for representation actions under the new legislative provisions.
- It could provide financial and logistical assistance to qualified entities to facilitate representation and increase consumers' access to justice.

- The Ministry would also be involved in providing technical assistance and advice to qualified entities regarding the management and reporting of their activities.
- 3. Provision of information and education on qualified representative entities:**
- The MEDD should carry out activities to inform and educate consumers about the existence and role of entities qualified for representation actions.
- The ISSPNPC will develop information materials and organize awareness-raising campaigns to increase consumers' familiarity with the procedures of representation action and their benefits.
- MEDD and ISSPNPC could also work with other relevant institutions and organisations to increase the reach and effectiveness of consumer information and education campaigns.

Finally, in order for the MEDD and ISSPNPC to effectively carry out their tasks within the institutional consumer protection system, it is essential to have adequate resources, including qualified staff, and a sufficient budget for the implementation and management of all relevant activities. Close collaboration and coordination with other institutions and organisations involved in consumer protection are also essential to ensure a coherent and effective framework in this area.

5. Recommendations for implementation:

For the effective implementation of the new law transposing Directive 2020/1828 in the Republic of Moldova, the MEDD and ISSPNPC should take into account the following recommendations:

- a) **Developing a detailed action plan:** The Ministry of Economy should develop a comprehensive implementation plan for the Directive, setting clear objectives, deadlines and specific responsibilities for each stage of the process from each institutional group.
- b) **Highlighting and recognition of qualified entities:** The ISSPNPC in coordination with the MEDD should develop a regulation establishing a system for the registration *and recognition of qualified entities* for representation actions. This could involve developing clear and transparent criteria for the qualification of entities, as well as providing assistance and guidance for the application for recognition.
- c) **Creation of a public register of qualified entities** : For transparency and accessibility, it would be useful to have an *online public register* (Database) where all qualified entities are registered, together with relevant information about their activities and area of competence.
- d) **Ensuring adequate resources:** Both the MEDD and the ISSPNPC should plan *adequate human, financial and technical resources* for the effective implementation and management of the new law. This could involve allocating additional funds for training, IT infrastructure, *in particular for financial support to qualified entities* and for other operational needs.
- e) **Information and awareness campaigns:** In order to inform consumers about their rights and the existence of entities qualified for representation actions, the ISSPNPC should carry out information and awareness campaigns. Such campaigns could include *seminars, informational materials, advertising spots* and other means of communication.

- f) **Regular registration of NGOs with an active role in consumer protection:** It is essential that the Republic of Moldova adopts legislation or regulations that explicitly assign responsibility to the MEDD for maintaining and regularly updating a comprehensive list of NGOs with active roles in consumer protection. This would ensure transparency, facilitate collaboration between the government and NGOs, and increase the effectiveness of consumer protection efforts in the country. In addition, NGOs should be encouraged to provide formal and up-to-date contact information to facilitate communication and collaboration.
- g) **Constant monitoring and evaluation of implementation:** It is important to put in place effective mechanisms to monitor and evaluate the implementation of the new law in order to identify any shortcomings or problems and take corrective action in a timely manner. This could involve the development of performance indicators, regular reporting and consultations with stakeholders.

6. Amendments to existing legislation and institutional reorganisation

6.1. Assessment of the necessary amendments to existing laws to adapt to the new law.

The normative measures necessary for the application of the provisions of the new Law are:

- a) the normative acts in force that will be amended or repealed, as a result of the entry into force of the draft normative act;
- Law no. 105/2003 on consumer protection, in the part referring to new notions (qualified entities, collective representation actions), the competence of the competent authorities in the field of consumer protection and the role of NGOs, etc.;
 - Code of Civil Procedure - amendments and additions regarding the new procedure, the stage in the process of the new subjects of collective representation (qualified entities);
 - Contravention Code – amendments and additions regarding sanctions (non-compliance by the professional with a provisional measure of cessation or prohibition of a practice, previously ordered by a final decision issued by a court, non-compliance by the professional with a final measure of cessation or prohibition of a practice, ordered by a national court by a final court decision, etc.);
 - State Budget Law for 2024 - amendments and additions regarding the allocation of additional financial means specifically intended for the financial support of qualified entities and other operational needs (online register, IT infrastructure).
- b) Internal regulations and instructions according to MEDD and ISSPNPC, following the entry into force of the new law
- MEDD will develop a *Regulation on how to register and recognise entities qualified for representation actions*;
 - MEDD will develop a *Regulation/Instruction on how to recognise NGOs with an active role in consumer protection*, with the aim of providing incentives and support mechanisms to encourage the formation of new NGOs focused on consumer protection;
 - The ISSPNPC will develop an *Instruction on the use by qualified entities of the Online Public Register* for periodic completion with relevant information about their activities and field of competence.

6.2. *Potential institutional reorganization*

Following the institutional evaluation of each entity/authority competent in the field of consumer protection, there will be no need for any reorganizations within ministries, inspections and courts, and there is an acute need to review the competence of MEDD in order to highlight, stimulate and support NGOs specialized in this field by developing funding programs:

a) *Institutional assessment of competent entities:*

Such an evaluation can analyse the current efficiency and effectiveness of the institutions responsible for consumer protection. If these institutions fulfil their roles and duties properly, massive reorganisations can be avoided, which can ensure continuity and stability in the consumer sector.

b) *Stimulating specialized NGOs:*

Given the insufficient number of NGOs active in consumer protection, incentivising and supporting them through funding programmes can be essential. These programmes could provide financial resources for activities such as informing consumers, providing legal aid, promoting and monitoring business practices.

c) *Benefits of collaboration between the government sector and NGOs:*

Encouraging collaboration and partnerships between government entities and NGOs can be key to strengthening consumer protection. Such collaboration can bring additional resources and expertise in the field of consumer protection, thereby improving overall intervention and protection capacity.

d) *Promoting transparency and accountability:*

The development of funding programmes for NGOs must be transparent and ensure accountability in the use of funds. Continuous monitoring and evaluation of the impact of these programmes can help ensure the efficient use of resources and identify best practices in the field of consumer protection.

Stimulating and supporting NGOs specialized in consumer protection through financing programs is a promising strategy for strengthening consumer protection in the Republic of Moldova. This approach can help increase intervention capacity, improve consumers' access to information and assistance, and promote a fairer and more transparent market.

7. **Structure of the new law:**

The new law will contain chapters covering the scope and definitions, procedures for representation actions, rights and obligations of qualified entities, remedies available to consumers, enforcement mechanisms and any other relevant provisions

CHAPTER 1 SUBJECT MATTER, SCOPE AND DEFINITIONS

- Object of the law
- Harmonisation with the legal laws of the European Union
- Correlation with other laws
- The principle of urgency
- Terms / Definitions
- Use of gendered terms

CHAPTER 2 REPRESENTATIVE ACTIONS

- Jurisdiction of the court
- Bodies authorised to submit a representative process
- Procedure for selecting an authorised association or other form of association of associations
- Publication of the list of authorised bodies
- Advance warning
- Mediation during the procedure
- Temporary measures
- Urgency in the procedures for determining and prohibiting the illegal conduct of the trader
- Content of the representative process
- Evidence only available for one side
- Injured persons included in the lawsuit
- Change of legal representative
- Inadmissibility of a new trial on the same application
- Decision
- Litigation Funding
- Participation fees
- Payment of court fees

CHAPTER 3 INFORMATION ON REPRESENTATIVE PROCESSES

- Information on representative laws

CHAPTER 4 FINAL PROVISIONS

- Transitional provisions
- Entry into force

By following this structured approach, the Republic of Moldova can effectively implement representative actions for consumer protection, aligning its legal framework with EU standards and improving consumer rights and redress mechanisms, once **the new law enters into force within 12 months of its adoption**. This will ensure the training and organisation of qualified entities in the field of collective representation of consumers.