



**INFORMATION · INFORMATORISCHE AUFZEICHNUNG · INFORMATION MEMO · NOTE D'INFORMATION
ΠΛΗΡΟΦΟΡΙΑΚΟ ΣΗΜΕΙΩΜΑ · NOTA D'INFORMAZIONE · TER DOCUMENTATIE**

Brussels, December 1984

THE COMMISSION PRESENTS A DISCUSSION PAPER ON CONSUMER ACCESS TO JUSTICE (1)

The Commission has recently approved a discussion paper on consumer access to justice, which is addressed to the Council, the European Parliament, the Economic and Social Committee and the Court of Justice.

The Second Consumer Action Programme recognized the following basic consumer rights : the right to protection of health and safety, the right to protection of economic interests, the right to redress and the right to information and education. Starting from these basic principles, the discussion paper outlines the problems encountered by consumers seeking redress and puts forward proposals for action at Community level.

The Commission's role

The Commission's aim is clear : to ensure that consumers throughout the Community enjoy a broadly similar standard of redress. While not excluding the long-term possibility of a binding legal solution, the Commission sees greater merit in concentrating for the time being on the promotion of appropriate action at national level in the field of redress.

The Commission is supporting pilot schemes in order to learn how to solve the problems encountered in practice by claimants seeking redress. On the basis of information obtained in this way, the Commission will propose concrete solutions and so improve administrative or extra-judicial procedures, arbitration and conciliation procedures and consumer advice and information arrangements.

The Commission will cooperate with national and local authorities and with consumer and producer organizations with a view to taking account of their views and experiences in preparing its future work on consumer access to justice at Community level.

./..

(1) COM(84) 692

Nature and scope of the problem

Consumers may be confronted with a variety of problems : a delivery may have miscarried, a new apparatus may not meet its user's expectations, a repair may have been badly carried out or a product may cause allergies.

There are a number of obstacles in the way of consumers seeking redress before the courts. First and foremost is the cost of legal advice and representation, which may exceed the amount at issue, together with the ever present threat in some countries that the unsuccessful party in legal proceedings may have to pay the other side's costs. The proceedings may be slow; a long time may elapse before a case is heard; the consumer may have to attend court on several occasions during working hours.

Quite apart from these material factors, there are also psychological barriers to be overcome. Consumers are sometimes overawed or even intimidated by the atmosphere of the courthouse or courtroom, by the formality of the proceedings and the legal language and even by the judges' and advocates' robes.

Measures taken in the Member States

Adequate advice and information are essential if any scheme to provide proper redress for consumers is to succeed. Unless a consumer knows that he or she has a right to redress or to be defended in an action brought by a trader, such schemes might just as well not exist. This may well be one reason why efforts in the Member States to improve access to justice have not met with the success they deserved. However, consumers have not made full use of these procedures because they do not meet their needs. Finally, in some cases, lack of funds has led to the closure of a number of consumer advice centres and arbitration schemes.

Efforts have been made in some Member States to overcome the obstacles encountered by consumers in seeking redress by simplifying court procedures for small claims. In England and Wales, for example, the special County Court procedure is a considerable step in this direction. Northern Ireland has also improved its County Court procedures, while in Scotland, which has its own legal system, a pilot scheme aimed at developing new procedures was in operation from 1979 until 1981. It was partially funded by the Community.

Denmark has set up a Consumer Complaints Board to deal with claims for compensation by consumers. This Board resolves disputes by a process of conciliation and arbitration. This approach exists, of course, in other Member States, often using conciliation or arbitration schemes.

In Belgium, an initiative has been taken with the help of the European Community. By way of experiment, a magistrate ("juge de paix") is to sit in two courts. Without undermining the role of the "juge de paix", the EEC is placing a neutral intermediary, a lawyer delegated for that purpose, at the disposal of consumers. He is there to help the parties. His main task is to identify the questions to be settled and to inform consumers of the procedures that apply. There are simplified procedures in Belgium for settling minor disputes. These procedures are little used. This pilot project is designed to humanize, speed up and make justice more accessible to the consumer.

Possibilities for action

Measures to help consumers would be of direct consequence to a large number of people and would constitute a worthwhile contribution to improving the quality of life in the Community.

The principles which facilitate access to justice have been identified, but there remains the real problem of putting principles and theory into practice. It can only be done by experiment. Consequently, the Second Programme proposes that pilot projects should be encouraged nationally and locally, so that the effectiveness of new procedures can be assessed in practice.

There are a variety of ways in which the Community can encourage activities designed to facilitate access to justice :

- financial support;
- technical support;
- organization of exchanges of information between expert advisers.

The Commission lays great stress on the importance of information. Consumer organizations have a special part to play in this respect :

- the existence of new procedures for settling disputes must be publicized if consumers are to know and take advantage of them;
- the publication of a guide to the procedures available for settling disputes involving consumer issues could serve a useful purpose; understanding the procedures would diminish consumer fears and might even enable them to handle their own cases;
- new computer-based information systems could provide easy access to a large volume of reference material in the field of consumer redress. Experimental systems are beginning to emerge: the Community might well offer financial support for the development of such systems;
- an interchange of information on developments in the field of access to justice throughout the Community and beyond its frontiers could be of value to consumer and professional organizations as well as to the governments of the Member States. The Commission could act as a centre for the distribution of such information or entrust that role to a university or an appropriate consumer or professional body.