

Rules of consumer redress in Hungary, in particular regarding the domestic model of alternative dispute resolution¹

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Abstract:

The Member States have sufficient leeway to maintain or flexibly shape the domestic map of consumer enforcement system within the European Union, thus reflecting the sociocultural conditions of the Member State concerned. In this study I focus on the consumer redress mechanisms in wider and narrow sense in the Hungarian legal system, highlighting the unique or special solutions.

Keywords:

consumer redress, alternative dispute resolution, consumer protection, collective redress

Introduction

In recent decades, global mass production and cross-border e-commerce have significantly changed consumption patterns. Businesses interact with thousands or even millions of consumers. Misleading advertising or unfair terms and conditions have a wide negative impact.² In modern consumer societies, mass-produced, lower quality but cheap products, as well as the proliferation of standard contracts, require the creation of legal protectory institutions that ensure that short-term market economy interests do not suppress the long-term interests of society, i.e., the spread of mass violations. In the case of infringements in small-value transactions, consumers typically do not go to court to protect their rights. However, mass detection and prosecution of infringements are dissuasive to businesses. The preventive effect of fines and damages is general and applies in a special way on the market. This encourages businesses to produce products of good quality, to fully inform consumers, to apply fair terms and conditions. Thus, the lack of legal protection mechanisms against processes that harm market economy and social interests would result mass infringements remaining in the legal system without legal solutions.

Consumer protection thinking has evolved in Europe because of the recognition of the expectations of the rule of law, including the need to establish legal protection mechanisms against processes that violate private law.³ In this context, the achievement of two goals has basically been outlined. In the first place, it should be possible to strengthen consumer protection, making it easier and more effective for them to enforce their rights through the judiciary, i.e., access to justice. In the second place, to ensure the functioning of the internal market, the barriers to claims should be removed in order to facilitate the conditions for genuine and fair competition between companies. The European Union has established a predominantly material legal system in the field of consumer protection, while entrusts the rules of enforcement, prevention, settlement and compensation to national legislation, with few exceptions.⁴

¹ This paper was supported by the János Bolyai Research Scholarship of the Hungarian Academy of Sciences

² Proposal for a Directive of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers, and repealing Directive 2009/22/EC, Brussels, 11.4.2018 COM (2018) 184 final <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52018PC0184&from=EN>

³ HAJNAL, Zsolt. A fogyasztók kollektív érdekeinek védelme In: SZIKORA, Veronika (ed.) *Kollektív fogyasztói jogérvényesítés*. Debrecen: FOME, 2012, pp. 13-18.

⁴ Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC . OJ L 165, 18.6.2013, p. 1–12, Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive

This also means that Member States have sufficient leeway to maintain or flexibly shape the domestic map of consumer enforcement system, thus reflecting the sociocultural conditions of the Member State concerned.

In the study, I introduce the Hungarian consumer redress mechanisms landscape, different models, with special emphasis on the Hungarian specific areas of alternative dispute resolution.

1. Consumer access to justice in Hungarian law

Forms of consumer enforcement can be grouped in different ways, we can isolate traditional or alternative forms of dispute resolution, individual or collective, judicial or extrajudicial, domestic or cross-border dispute resolution. Traditional forms of dispute resolution typically refer to the judicial procedure, while alternative dispute resolution forms typically offer alternative dispute resolution solutions. Consumer redress systems typically have features that allow these low-value cases to be settled by the parties in a cost and time effective, professional procedure, while at the same time the impact of these enforcement systems on trade is also significant.

In the broad definition of consumer protection enforcement, we must include all enforcement methods in which the consumer can initiate proceedings in connection with the violation of his individual or collective rights and interests in order to enforce his interests. The broad wording includes not only classical methods of civil procedures and their alternatives, but also administrative procedures, although they are not at all or not directly suitable for pursuing private requests.

Consumer enforcement models in the narrow sense are directly suitable for enforcing the consumer's private legal requests. On this basis, we do not include administrative procedures in which an authority with consumer protection competence monitors compliance with consumer protection provisions, even if, in possession of a decision on infringement, the consumer can enforce his private requests in another separate procedure. As a general rule, the competence of consumer protection authorities do not extend to the control of the provisions relating to the establishment, validity, legal effects and termination of the contract.⁵ At the same time, consumer protection authorities may also have competence that affect the legal impact of consumers' private legal relationships, where appropriate, the exercise of authority also cause the reparation of the consumer's infringed private claim.

2. Easy access to justice mechanisms in civil and commercial law

From 1 January 2021, the Code of Civil Procedure has established rules of jurisdiction more favourable to consumers.⁶ On this basis, the consumer may be sued exclusively in court in the position of defendant according to his place of residence by the Art 26, while in the case of a lawsuit brought by the flounder against a business arising from a contractual relationship, the court of the applicant's place of residence or residence has jurisdiction based on the Art 28. (1) d). In addition, in the standard contracts between the consumer and the business, the arbitration clause as a general contract term was established as unfair in the resolution of the Curia's Civil College.⁷ The ex officio consideration of consumer quality and unfair terms and conditions in consumer contracts also help the consumer in civil litigation.

The Hungarian alternative dispute resolution procedures and some of the administrative procedures assume consumer awareness and active participation, so the legal system also helps consumers take the first steps of enforcement. As an old example the shopkeepers are obliged by the Act on trade to place a book of customers in the business premises at a good visibly and easy accessible place in which consumers can make their complaints about the service in writing.⁸ The same purposes are served by

2009/22/EC OJ L 165, 18.6.2013, p. 63–79, 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 OJ L 409, 4.12.2020, p. 1–27, Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations OJ L 177, 4.7.2008, p. 6–16 Art. 6., Regulation (EU) No1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters OJ L 351, 20.12.2012, p. 1–32., Art 17-19.

⁵ Act CLV of 1997 on Consumer protection Act Art. 45/A 1.

⁶ Act CXXX of 2006 on Civil procedure

⁷ Resolution No. 3/2013 of the Curia Civil College

⁸ Act . CLXIV of 2005 on trade Art 5. (4)

the rules of the CPA on the operation of customer service.⁹ In both cases, it imposes a response obligation on the undertaking within 30 days of a substantive investigation.

In addition, there are several rules in consumer substantial law, that are not part of the redress legal framework in narrow approach as well, but at the same time allow for easier enforcement of consumer rights. Such can be considered the obligation to interpret the law more favorable to the consumer, the non derogable protecting rules in the civil contractual law, the presumption of nonconformity in the warranty rules, reverse rules of proof, strict forms of liability (product liability), favorable rules for consumers in cross border jurisdiction and applicable law and even the consumers' withdraw rights.

3. Opportunities and legal basis for collective consumer enforcement in Hungarian law

Collective dispute resolution systems can serve several objectives of legal policy, such as the promotion of access to justice¹⁰, the reduction of costs¹¹, the efficiency of justice¹² and the improvement of the behaviors of economic operators.¹³

In the Hungarian law, more legal acts provide protection for the collective consumer interests, to several legitimate organizations. In general, such claims are enforced only by public bodies designated by the legislator or by other organizations for the protection of these interests and for the protection of specific rights¹⁴.

Authorised entities may bring an action of public interest in order to establish the invalidity of an unfair general contract clause which becomes part of the contract between the consumer and the undertaking. According to Section 6: 105 of the Civil Code, the public prosecutor, the minister, the autonomous state administration body, the head of the government, the head of the central office, the head of the capital and county government office, an consumer association, the economic and professional chamber may bring an action in the public interest for the protection of consumers' interests.¹⁵

Issues such as the above mentioned ones in connection with public interest claims that may be filed against unlawful activities against consumers may also arise in the CPA¹⁶, the Competition Act¹⁷ and Act on the Central Bank¹⁸. The Competition Authority and the Central Bank practically never use this legal option to reach individual consumers compensation.

According to the CPA may be initiated by the public prosecutor's office and by the associations representing the interests of consumers if the lawful conduct of the undertaking affects a wide range of consumers which are not known but which can be determined on the basis of the circumstances of the infringement or a significant disadvantage and the proceedings fall within the jurisdiction of the court.

4. Enforcement of the consumer's private requests in administrative proceedings

Although administrative and private enforcement systems are separated in European legal systems, in Hungarian consumer protection administrative procedures we can observe on numerous occasions that

⁹ Act CLV of 1997 on consumer protection Art. 17/A-C

¹⁰ GIBBONS, S.M.C.: *Group Litigation, Class actions and Collective Redress: An Anniversary Reappraisal of Lord Woolf's Three Objectives*. In: DWYER, D. (ed.): *The Civil Procedure Rules Ten Years On*. Oxford–New York, 2009., 129.

¹¹ ANDREWS, Neil: *English Civil Procedure. Fundamentals of the New Civil Justice System* Oxford–New York. 2003. 974.

¹² UDVARY Sándor: *The Advantages and Disadvantages of Class Action* *Iustum Aequum Salutare* IX. 2013.1., 68.

¹³ Regarding tot he Hungarian collective redress mechanisms see more: HARSÁGI Viktória: *A kollektív igényérvényesítés fejlesztési lehetőségei* *Acta Univ. Sapientiae, Legal Studies*, 4, 2 2015., 218., HARSÁGI Viktória: *A modellválasztás dilemmái a kollektív igényérvényesítés hazai szabályozásánál* *Eljárásjogi Szemle*, 2016/1., 24.

¹⁴ KECSKÉS László – WALLACHER Lajos. *A csoportos jogérvényesítés lehetséges formái választottbíráskodás keretében a magyar jogban*. In: KECSKÉS László – LUKÁCS Józsefné (ed.) *Választottbírók Könyve*. Budapest, HVG-Orac. 2012. 283.

¹⁵ Act V of 2013. on the Civil Code

¹⁶ Act CLV of 1997 on consumer protection Art. Art. 39

¹⁷ Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition (Hungarian Competition Act) 85/A §

¹⁸ Act LVIII of 2001 on the Hungarian National Bank

the authority's procedure also implements the enforcement of consumers' private request. This phenomenon is clearly due to the over-regulation of sectoral markets or the progressive and creative use of the instruments available to the authority in order to enforce the contractual rights of the consumer. This is what we encounter when the Consumer Protection Authority has jurisdiction over utilities related to breach of the rules on accounting, billing, payment or measurement, as well as the suspension or switching on or re-switching of electricity from electricity and gas supply.¹⁹ In these cases, on the basis of a contract between the consumer and the service provider, the consumer may also remedy the above-mentioned requests in the framework of an official administrative procedure.

Similar rules are also found in the Government Decree on the mandatory guaranty of certain durable goods.²⁰ The government decree specifies the order, the deadline for the enforceability of the guaranty claims, the deadline for the refund of the purchase price, so if it can be established at the first repair that the product cannot be repaired, or the repair could not be completed in 30 days, or after repairing it three times, the consumer can request the replacement of the product within 8 days, or if this is not possible to refund the purchase price. The consumer protection authority has the competence to enforce the rules, so a consumer can even reach the enforcement of a guaranty claim in an administrative procedure. All these rules apply only in the context of mandatory guaranties for durable goods.

In Hungary, the Hungarian Competition Authority monitors fair competition, and has competence in cases with competition integrity which violate the rules of the Competition Act and the UCP Act. In addition, the Competition Authority has the power to bring a public interest action to enforce consumers' civil claims, where the infringing conduct of the undertaking falling within the competence of the Competition Authority, concerns a wide range of consumers which can be determined based on the circumstances of the infringement. However, the Competition Authority has not yet successfully used this tool on any occasion. Nevertheless, in an increasing number of procedures we are seeing the phenomenon of clients' voluntarily undertaking to compensate consumers to reduce fines in the context of the competition supervisory procedure. With this tool, the Competition Authority establishes the infringement and imposes a fine, while at the same time satisfying the civil claims of the injured consumers. In its decision Nr. Vj/39/2018. on 27 February 2022, the Competition Authority ordered the operator of the Alza.hu website to pay a fine of HUF 40 million and to undertake a reparations package for consumers of HUF 450 million. The client urged consumers to buy with aggressive, mostly untrue messages.²¹

5. Hungarian regulatory features of consumer alternative dispute resolution

Consumer protection regulation and consumer alternative dispute resolution did not have a tradition in Hungary. The modernization of Hungarian consumer law was more seriously affected by the Association Agreement concluded with the European Community in 1991 and incorporated by Act I of 1994, which imposed an obligation on Hungary to harmonize the law.

However, the right to consumer enforcement was named among consumers' fundamental rights, but in this context, the European Union's binding acts²² were born relatively late following early recommendations.²³

¹⁹ Act XL of 2008 on the supply of natural gas 64§, Act LXXXVI of 2007 on electricity 57 §

²⁰ Government decree 151 of 2003. (IX. 22) on the mandatory guaranty of certain durable goods

²¹ Vj/39/2018. Decision Alza

https://www.gvh.hu/sajtoszoba/sajtokozlemenyek/2018_as_sajtokozlemenyek/valotlan_arkedvezmenyeket_igerhetett_az_alza_hu_bl

²² Commission Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters, [2008] O.J. L 136/3, Consultation paper on the use of Alternative Dispute Resolution as a means to resolve disputes related to commercial transactions and practices in the European Union (European Commission, January 2011); Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR), 2013; Regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes (Regulation on consumer ODR), 2013

²³ Council Resolution of 25 May 2000 on a Community-wide network of national bodies for the extra-judicial settlement of consumer disputes, [2000] O.J. C 155/1; Commission Recommendation 98/257/EC on the Principles Applicable to the Bodies Responsible for Out-of-Court Settlement of Consumer Disputes, [1998] OJ L

Currently, out-of-court dispute resolution of consumer disputes in Hungary is carried out more broadly by the following organizations:

- Independent arbitration boards operated by the county chambers of commerce and industry may act in all consumer disputes other than financial consumer disputes;
- The independent Financial Arbitration Board, operated by the National Bank of Hungary, acts in financial consumer disputes and is also a member of the FIN-NET system;
- The Media and Infocommunication Ombudsman cooperates as part of the National Media and Infocommunication Authority in the enforcement of the interests of consumers using electronic communications services and media services;
- As a Hungarian member of ECC-NET, the European Consumer Centre helps to enforce consumer disputes with foreign companies in the operation of the Ministry responsible for consumer protection, as well as in the operation of the Ministry of Consumer Protection.;

Among the above, the general arbitration boards (in 19 counties and Budapest) and the Financial Arbitration Board can be considered as alternative dispute resolution bodies for consumers under the ADR Directive.

5.1. Arbitration in general consumer disputes

The government accepted the need for consumer protection modernisation under the pressure of legal harmonisation and linked it to the fulfilment of legal harmonisation tasks. In its decision No 2145/1996, it laid down the most important principles and requirements for the modernisation of consumer protection legislation and provided that the competent ministry should prepare a draft consumer protection law. As a result, on 15 December 1997, the Parliament adopted Act CLV of 1997 on consumer protection (hereinafter referred as CPA), which entered into force on 1 January 1998.²⁴ These ADR bodies began to operate alongside the territorial chambers of commerce on 1 January 1999.

The development of the current regulation was shaped by three effects: ad1) community and EU legislation of an initial recommendation and then adopted at directive and regulation level necessitated legislative intervention; ad2) efforts to protect effective consumer rights have changed the statute of the legal institution in such a way that it allows for more effective legal protection for consumers and businesses; ad3) due to the lack of tradition of the legal institution, the existing set of rules had to be adapted to practice.²⁵

The conciliation body has established a specific dispute resolution mechanism in which mediation elements are combined with arbitrage grades. In addition to the mediation method, where the mediator, as an expert, does not engage in a dispute between the parties, does not give advice, does not propose a decision, but at the same time directs the parties towards the formation of an agreement, it also includes the characteristics of the classical application of the law, in which the council can make a decision by examining the case.

From the outset, the legislator has developed the rules of arbitration boards in a way to ensure the principles that are the cornerstones of modern judicial systems. As a result, in compliance with the EU's recommendations and subsequent directives, the principles of professionalism, independence, impartiality, speed, cost-effectiveness, alternative procedure and judicial control are applied in the procedure. In order to increase efficiency, a number of measures have been taken in recent years to promote cooperation between businesses with the arbitration board, while other measures have instead sought to promote the willingness of businesses to cooperate by softer means of sanctioning.

5.1.1. The active participation of the consumer is a requirement for the initiation of the proceedings

155/31; Commission Recommendation 2001/310/EC on the Principles for Out-of-Court Bodies involved in the Consensual Resolution of Consumer Disputes, [2001] OJ L 109, 56-61

²⁴ FAZEKAS, Judit: A hazai fogyasztóvédelem jogi szabályozása. *Fogyasztóvédelmi Szemle*, 2004, vol. 1, p. 61.

²⁵ See the development of consumer protection legislation: SZIKORA, Veronika. A fogyasztóvédelmi jog történeti kialakulása Európában, különös tekintettel a magánjog-egységesítési folyamatokra. In SZIKORA Veronika (ed). *Magyar fogyasztóvédelmi magánjog – európai kitekintéssel*. Debrecen: Fogyasztóvédők Magyarországi Egyesülete, 2010, 19-30.

The CPA has established an out-of-court alternative procedure to enable consumers to resolve their disputes quickly, without formality and cost-effectively. At the same time, the legislator had a clear aim that, in order to raise awareness of the consumer society, the first step in resolving the dispute should be taken by the consumer himself and that he could only use state assistance if it failed. The consumer is obliged to provide credible evidence of this (the rejection letter of the business or at least the submission of a written complaint), which he does not comply with pure declaration that he has unsuccessfully attempted to settle the dispute. Failing that, the proceedings cannot be initiated, or a successful action can be brought at the competent County Court for the annulment of the recommendation and obligation made in the course of the proceedings initiated in this way.²⁶

The CPA's current legislation allows arbitration proceedings to be initiated in two sets of relations. On the one hand, in respect of a natural person acting for purposes outside his own professional and economic activity, who buys, orders, receives, uses, uses goods or is targeted by commercial practices or offers relating to the goods.²⁷ As of 1 September 2008, the regulation extended the above concept of consumer dispute to other persons, such as a separate law-made ngo, ecclesiastical legal entity, condominium, housing association, micro, small and medium-sized enterprises, acting for purposes beyond their independent profession and economic activity.²⁸ These persons are still not considered consumers in material legal terms, they are entitled to initiate only conciliation proceedings.²⁹

The purpose of the legislator with the modification of the CPA was evident that, where appropriate, undertakings in consumer quality acting out of their profession could at least have access to an easier redress mechanism if they could no longer be protected by material law. The classification of small and medium enterprises as consumers seems to show difficulties³⁰, the arbitration board state its competence by examining the direct and indirect economical purposes of the contract and considering the European Court of Justice relevant case regarding to dual use contracts³¹ and qualification of the consumers.³²

5.1.2. Competence and staff of the arbitration boards

By the CPA. the arbitration board's competence extends to the out-of-court settlement of consumer disputes other than financial disputes.³³ The definition of consumer dispute also needs to be explained in itself, as set out in the CPA. defines as follows: a dispute relating to the conclusion and performance of a sales or service contract between the consumer and the undertaking and, in the absence of a separate sales or service contract concluded between the consumer and the undertaking, a dispute relating to the quality, safety, application of product liability rules, quality of service.

²⁶ Metropolitan Court of Appeal decision 4. Pf.20.552/2014/6., Metropolitan Court of Appeal decision Pf.20669/2016/4.

²⁷ CPA 2. § a)

²⁸ CPA 2. § a)

²⁹ HÁMORI Antal: A fogyasztóvédelem közigazgatási „útvesztői”: (a „fogyasztó” fogalom „dilemmái”). In: Majoros Pál (szerk.): BGF Tudományos Évkönyv 2008: Kultúraközi párbeszéd az üzleti világban. 400 p. Konferencia helye, ideje: Budapest, Magyarország, 2008.11.06-2008.11.07. Budapest: Budapesti Gazdasági Főiskola, 2009. 150-166.; PAPP Tekla: Mit takar a fogyasztó kategóriája, *Céghírnök*, 2013/2, 5., FUGLINSZKY Ádám: *Fogyasztói adásvétel, kellék- és termékszavatosság*, Budapest, Wolters Kluwer (2016) 27-50.

²⁹ HÁMORI, Antal. A fogyasztóvédelem közigazgatási „útvesztői”: (a „fogyasztó” fogalom „dilemmái”). In: MAJOROS, Pál (ed). *BGF Tudományos Évkönyv 2008: Kultúraközi párbeszéd az üzleti világban*. Budapest. Budapesti Gazdasági Főiskola, 2009. 150-166.; PAPP, Tekla. Mit takar a fogyasztó kategóriája, *Céghírnök*, 2013/2, 5., FUGLINSZKY, Ádám. *Fogyasztói adásvétel, kellék- és termékszavatosság*, Budapest. Wolters Kluwer, 2016, 27-50.

³⁰ C-464/01 judgment of the Court (Second Chamber) of 20 January 2005. Johann Gruber v Bay Wa AG. ECLI:EU:C:2005:32

³¹ C-110/14. judgment of the Court (Fourth Chamber) of 3 September 2015. Horațiu Ovidiu Costea v SC Volksbank România SA. ECLI:EU:C:2015:538

³¹ Fgytv. 18. § (1)

³¹ C-110/14. judgment of the Court (Fourth Chamber) of 3 September 2015. Horațiu Ovidiu Costea v SC Volksbank România SA. ECLI:EU:C:2015:538

³² Fgytv. 18. § (1)

The conciliation procedure may, as a general rule, be conducted by 1 member and, at the request of the parties, by a three-member council, in writing or by a personal hearing. The member of the arbitration board must have a higher education degree and two years of professional experience, but a member acting alone may only have a law degree. The members shall be selected by the Minister responsible for consumer protection for 3 years on the basis of the tender and evaluation of the competent chamber.

5.1.3. Obligation of the businesses to cooperate

The success and effectiveness of dispute resolution mechanisms based on voluntary submission largely depends on the willingness of the consumer society and the entrepreneurial sector to follow the law voluntarily. As a result of the latest amendment of the CPA., the obligation of businesses to cooperate was extended to participate in the hearings, whereas previously they were obliged to respond only on the merits to the request of the arbitration board.

The CPA. Section 29 of the obligation to cooperate requires the coexistence of two conditions. On the one hand, CPA obliges the business with the content set out in Section 29 (8), within the time limit, to send a substantive reply to the appropriate request of the arbitration board. With regard to the content of the reply, the business shall declare in writing the legitimacy of the consumer's claim and the circumstances of the case and the acceptance of the Council's decision as an obligation, indicate in its statement the facts and their evidence, and attach the documents of which it refers to as evidence. Secondly, the business shall ensure the participation of the person empowered to reach an agreement at a hearing, where the head office, establishment or branch of the business is registered in the county of the chamber which operates the competent arbitration board. If it does not have a registered office, establishment or branch in that county, the business's obligation to cooperate shall include the offer of the possibility of reaching a written agreement in accordance with the consumer's request. This version of the cooperation duty is discussed, especially in those cases where the consumers unjust complaint will be rejected, the business should either participate to deny the consumers request or offer in its reply a written offer for an agreement.

The original purpose of the amendment of the law was to have the businesses represented at the hearing of the arbitration boards, thereby facilitating the primary task of the arbitration board, the settlement of the dispute by creating an agreement. In the event of a breach of the obligation to cooperate, the arbitration board is obliged to notify the company of the consumer protection authority competent for its seat, who in any case imposes a fine with a minimum amount of HUF 15,000.

In addition to non-substantive decisions, the arbitration board may make 4 types of decisions. The arbitration board primarily tries to reach an agreement. An agreement in accordance with the law shall be approved by the Council or a Member by decision, which shall be binding on the parties. Enforcement of the settlement may be requested from the competent County Court. The acting Council or member shall take a decision containing an obligation if the application is substantiated and the business has submitted itself to the decision of a arbitration board, which can also be enforced. In the absence of submission and agreement, the acting member or council shall make a recommendation if the application is substantiated. The tag decides to reject the consumer's application if, after the hearing, it finds the application to be unfounded.³⁴ To serve the principle of the legal certainty, there is no right of appeal against the decision containing an obligation or recommendation, but its annulment may be requested from the County Court referring on some procedural rules. Concerning to the recommendation in the above mentioned procedures the legal conformity of the recommendation can be examined.³⁵

In 2021 all arbitration boards in Hungary have treated 10016 consumers applications, in 1,415 cases recommendations were made, 1,915 were agreed, and 27 ended with an obligation, and 1,471 cases were rejected.³⁶

5.2. Financial Arbitration Board

The Financial Arbitration Board is an out-of-court alternative dispute resolution forum operated by the National Bank of Hungary, which since 1 July 2011 has been providing the opportunity to resolve

³⁴ CPA. 32 -32/A §

³⁵ CPA 34 §(3) 4.

³⁶ Professional report and analysis of the activities of arbitration boards in 2021. Budapest, 2022 February
<https://api.bekeltetes.hu/api/documentManager/document/79505d66-b78d-4f80-847d-04bc2f418f48>

consumer disputes on financial matters between consumers and financial service providers supervised by the MNB. The Financial Arbitration board was established on 1 July 2011 by Act CLVIII of 2010 on the State Supervision of Financial Organizations. Before that, there was no financial arbitration in Hungary. In the past, consumers could turn to the conciliation bodies competent for their place of residence.

In some respects, the Financial Arbitration Board can be regarded as a very successful alternative dispute resolution model, which in many respects has also become a small court for financial consumer disputes. All this is based on a number of rules.

Members of the Financial Arbitration Board may be persons with a law degree and a professional examination or an economics degree. In the course of the procedure, the supervised financial institution is also obliged to cooperate, which includes the sending of a substantive reply letter and personal participation in the procedure. The body operated by the Central Bank has the advantage of transmitting the matter to the central bank's supervisory department, noticing a violation of financial law.

One important difference between the general conciliation body procedure and the court proceedings is that the proceedings of the financial conciliation body can also be requested for reasons of equity, when the consumer does not dispute the amount and legal basis of the claim. The success of the procedure is demonstrated by the fact that in 2021, out of the 483 financial market equity cases completed, 155 cases were agreed, and a further 44 cases were agreed out of procedure between the parties.³⁷

The substantive decisions of the financial arbitration board and the general arbitration board bear many similarities. In the course of the proceedings of the Financial Arbitration Board, it is primarily attempt to establish an agreement between the parties, when the agreement complies with the law, the Council approves it by decision, otherwise or in the absence of an agreement it will continue the proceedings.³⁸ In the absence of an agreement, the Council or member shall take a decision containing an obligation on the merits of the case if the request is substantiated and the complained party has recognized the decision of the Financial Arbitration Board as binding on itself or makes a recommendation if the request is substantiated.³⁹

The significance and role of the Financial Arbitration Board is enhanced by the fact that, in the absence of an agreement, the Council may take a decision containing an obligation even if the complained submission declaration has not been made, but the application is well founded and the consumer's claim to be enforced does not exceed one million HUF.⁴⁰

Conclusion

Consumers cannot benefit from the European Union's internal market if they are not granted a high level of consumer rights and the claims enforcement systems necessary to enforce rights. The established consumer redress systems are easily comparable through their institutional forms, paternalistic or supporting attitude, rules on the obligation to cooperate, sectoral systems, the binding force of decisions, and solutions for enforcing compliance. From this we can draw conclusions on the national traditions of out-of-court dispute resolution methods, collective redress mechanisms, the awareness of the consumer society and the business sector's ethics.

³⁷ Report on the annual activities of the Financial Arbitration Board 2021. Hungarian National Bank, Budapest 60.60.2022.

³⁸ Act on Central Bank 111 § (1)

³⁹ Act on Central Bank 113 §

⁴⁰ Act on Central Bank 113 § (2)