

**Public enforcement of consumer collective interests in Poland
in the context of the EU law
- the clash between the law in books and the law in action**

Law enforcement is traditionally categorized into *public* and *private* mechanisms. Member States traditions in this respect are varied- some traditionally follow *private* and other *public* law enforcement. In Poland, both ways of enforcement function simultaneously. On the *private* path of law enforcement consumers may seek redress in civil proceedings before courts (either individual or in group proceedings), or to resolve their disputes out-of-court. On the other hand, there is also a *public* way of enforcement of consumer law which applies to enforcement of consumer collective interests. It is executed by virtue of administrative proceedings conducted by the Polish President of the Office of Competition and Consumer Protection (Urząd Ochrony Konkurencji i Konsumentów, UOKiK)- an administration authority responsible for implementing the consumer protection policy in Poland. Both ways of enforcement in Poland are strictly interdependent.

The *private* path of consumer law enforcement has been already deeply scrutinized by the Applicant. Results emerging from the analysis in this area demonstrated clearly that the course of the group proceedings conducted before civil courts (*private enforcement*) is considerably influenced by decisions of the President of UOKiK regarding the practice infringing consumer collective interests (*public enforcement*). It emerged from this research that the decision of the public enforcer has a tremendous impact on the effectiveness on the court proceedings and on the amount of compensation awarded to consumers by civil courts. Against this background, the current Proposal constitutes a continuation of the research that has been conducted so far. In order to get a complete picture of consumer law enforcement in Poland it is indispensable to conduct an in-depth analysis of *public enforcement* of consumer collective interests.

The research aims at verification of the hypothesis saying that, taking Poland as an example, public enforcement of consumer collective interests can secure effective redress and at the same time guarantee high level of consumer protection. The research questions are as follows:

- A. Does the EU have a legal competence regarding public enforcement of consumer collective interests?
- B. Does any EU-wide model of public enforcement of consumer law exist?
- C. Are there any good practices, used by public authorities enforcing consumer law in different Member States which may be implemented in Poland?
- D. Can implementation deficit in the area of enforcement of collective consumer interests be observed in Poland?
- E. What is the *status quo* of public enforcement of consumer collective interests in Poland?

The research project has a multilayer construction and it is divided into three fundamental parts. It starts with the study of the doctrinal basis for public enforcement of consumer law in the EU ('law in books'). At the second part of the research a comparative-legal analysis is conducted. The research is focused here on these jurisdictions in which regulatory redress has become the primary mechanism for delivering redress to consumers, clearly eclipsing private enforcement. At the third part of the project the research activities have national dimension. At this stage, the research aims at examining the current stay of play of public enforcement of consumer collective redress in Poland. This part of the research has empirical character and involves conducting case studies and interviews. Within the empirical part I confront the 'law in books' with 'law in action' through analysis of a real-life data with use of qualitative methods. Research sample is composed of the decisions of the President of the UOKiK in the domain of consumer law issued between 2010-2020 and experiences of relevant stakeholders expressed in the interviews with President of the UOKiK, consumers, Polish Financial Ombudsman and consumer organisations.

The research results will present the factual and current *status quo*, tools and mechanisms that serve the purpose of consumer law enforcement by public authority in Poland, its evaluation and recommendation of changes which will provide greater effectiveness, coordination and synergy and initiatives undertaken. The crowning achievement of abovementioned research will be the creation of a complex program analysis concerning the state of public enforcement of consumer collective interests in Poland, which will include the EU concept and experiences of other Member States.