

“Cross-Border No Protection of Consumer Laws in Cyprus”

Challenges and Unanswered Questions of Consumer Law

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- BACKGROUND

- Since 1974, the island of Cyprus is divided into two with the majority of Greek Cypriot population living in the south and the majority Turkish Cypriot population living in the northern part. South Side uses the currency Euro and speaks Greek where the North uses Turkish Lira and speaks Turkish.
- Crossing between the two parts of the island opened only in 2003 subject to the Green Line Regulations.
- Politically, the whole island is part of the European Union, but the northern part is where the European Union does not have effective control over.
- Turkish Cypriots are citizens of the Republic of Cyprus which is a Member State of the European Union. Technically, the Northern part of Cyprus is not subject to EU *acquis* but individually they all benefit from the *acquis*.
- However, the moment Cypriots engage in cross-border trade – their rights on consumer law are being left behind.

CROSS-BORDER TRADE VS CYPRUS

- In its usual meaning, cross-border trade means involving movement or activity across a border between two countries. Even though Cyprus an island there are currently two different countries and two different jurisdictions.
- In its unconventional sense, the term – cross border can be used even though this term’s original purpose was for the activities in between the Member States of the European Union.
- Since the North is not a Member State for the European Union, the term could be applicable as - “across border trade.”



Let's Talk Figures.

- There were 3.5 million crossings from the south to the north in between January – August 2022.
- In 2022, Trade across the Green Line, whereby Turkish Cypriots sell certain goods to the Greek Cypriots, has generated a revenue of 8 million euros that was expected to reach to 12 million Euros by the end of 2022 – this number has not been published yet.
- During the same period, Greek Cypriots only; spent almost **30 million euros** just with their credit cards – this does not include the cash spendings.
- There is evidence of undeniable economic activities from both sides.
- To a certain extent, we may even discuss the notion of the ‘invisible hand’ keeping afloat both sides. Republic of Cyprus’ financial crisis was in between the years of 2012-13 and it was established at the time that it was the Turkish Cypriots keeping the economy alive and now it is the Greek Cypriots doing the same for the Turkish Cypriot when they experience a huge devolution of Turkish lira in the past months. Invisible or not, through individual self-interest and freedom of production and consumption, the best interest of society is fulfilled.

One of the busiest check points in Nicosia, the last divided capital of Europe.



What makes the Cypriot consumers vulnerable?

- Language Barrier
- Logistic Problems
- Information Asymmetry
- Inequality of Bargaining Power
- Inability to Access Justice as Lack of Knowledge on Procedure

Sector Specific Disadvantages for Cypriot Consumers:

■ Food Labelling -

On supermarkets, shops, as per the language spoken on both sides, seller/suppliers, provide extra labels regarding ingredients, contents do not fulfil the needs of the Cypriot consumer in their role as European consumer. There are instances where the imported goods food labelling have Turkish attached to the English label and vice versa on the other side of the border. Assuming that the consumer can even read English, they probably won't even have access to that.

■ Gambling -

It is common practice for the consumers to cross the border from the South side to the North side to gamble which is only illegal for the TRNC citizens. Hotels even organise 'Greek Nights', concerts, activities, bring artists, singer to perform from Greece for the enjoyment of the consumers from the South side. Information desks, etc. are all designed for the benefit of the Greek Cypriots rather than the Turkish Cypriots.

■ Warranties -

Not having a home address in one or the other jurisdiction prevents you from registering your device to activate your warranty even though you're probably taking your item from 10 minutes away from the store but to the other side of the 'Buffer Zone'!

■ Product Liability & Technology

- On January 2023, a complaint has reached to the North Cyprus Consumer Arbitration Board. A real-life example illustrates the notion of non-existence of product liability and warranty that applies mutually on both sides. Even though this has not yet been reported, this issue will provide a good example to illustrate the aim of this research.
- In North Cyprus, a man purchases an iPhone 13, the phone starts to malfunction after a few months, he takes it back to the seller to claim his rights under the statutory 2 year-warranty.
- The seller states that the authorised service is in the South Side and the seller who is from Turkey is not permitted to cross the border. A friend of the seller takes the mobile phone to the South Side, couple of days later the phone gets fixed, it gets picked up and the consumer received the phone in its new and repaired way free of charge.
- The moment the consumer switches the phone on, a message from the TRNC 'Information Technologies and Communications Authority' that due to the imei number of the phone being changed, the phone was recognised as a brand-new phone, not being registered or subjected to customs and tax and the consumer has 90 days to pay the customs and tax and the registration fee if he wanted to use the phone. There is no mutual mobile telecommunication sector – or any other sector for that matter that the consumers can actually benefit from. In this scenario, the consumer exercised his right for a free of charge repair, seller/supplier fulfilled his obligation towards the consumer by ensuring that the mobile phone has been sent to the relevant authorised service dealer not to interfere with the official warranty. The moment the phone crossed the borders and there has been a change on the imei number, the authorities on the North side assumed that it was a new and unregistered phone and required for the phone to be registered at the Information Technologies and Communications Authority and then sent for the payment of customs. Who should face the burden on this scenario? Neither the seller nor the consumer should be responsible on this scenario, yet the consumer is demanding for the seller to face the consequences and seller is arguing that he has already paid all the relevant fees during the time of the first registration. They're both right! It is the border that is to blame on this scenario.

- The needs of the Cypriot consumers differ from those in different Member States of the European Union in such a way that all the Cypriots are by definition will fall within the scope of the vulnerable consumer. Court of Justice of the European Union (CJEU) by its settled-case law takes the yardstick of an 'average consumer'; however, the theory on this aspect has the tendency to fail the Cypriots in their role as consumers. Cypriots, in theory, have access to justice when it comes to arguing for their rights as consumers, but they would face practical obstacles like language barriers, procedural laws and in practice there are companies refusing to provide warranty to those not having a home address on “**the correct side**”.
- Both sides do have Consumer Arbitration Boards and Non-governmental Organisations that specifically specialise in consumer protection laws. However, up until today, none of these has been reached out regarding a claim of *Across the Border* economic activities.
- The numbers illustrate the extensity of the financial interaction in between two sides. It is highly unlikely that all the 3 million crossings, spending millions of Euros not to experience any disadvantages or conflicts. Why are the Cypriot consumers so hesitant in this as a theory could be the fact that they do not possess the relevant information to access the justice. This could be a number of factors, language, lack of knowledge, potential racism, may see it as a waste of time, etc.

- Article 169 of the Treaty on the Functioning of the European Union (TFEU) states *inter alia* that, high level of consumer protection needs to be ensured. To promote that aim, consumers' specific needs must be analysed and approached adequately.
- The high level of consumer protection laws in Cyprus in general are in existence in technicality but in practice Cypriots in their role as European consumers are not exercising their rights as they should be. **This now should be the time to think about a potential way to reconceptualise the consumer protection laws in Cyprus as a whole.**



Thank you !

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