

## **Advice to the consumer on the procedure in out - of - court settlement of consumer disputes according to of Act no. 634/1992 collections, on consumer protection:**

Under this Act, the consumer has the right to an out-of-court settlement of a consumer dispute under a sales contract or a service contract

"Consumer dispute") except for contracts concluded

- a)** in the field of health services provided to patients by health professionals for the purpose of providing health services care<sup>38</sup>), including the prescription, supply and supply of medicinal products and medical devices,
- b)** non-economic services of general interest,
- c)** with public providers of further or higher education.

### **Subjects of out-of-court settlement of consumer disputes**

The subject of out-of-court settlement of consumer disputes within the meaning of this Act is

- a)** in the field of financial services, the Financial Arbiter within the scope of the legal regulation governing the Financial Arbiter<sup>39</sup>),
- b)** in the area of electronic communications and postal services, the Czech Telecommunications Office within the scope of the legal regulation governing electronic communications and postal services<sup>40</sup>),
- c)** in the field of electricity, gas and heating industry, the Energy Regulatory Office within the scope set by the legal regulation governing the electricity, gas and heating industries<sup>41</sup>),
- d)** in cases where the competence of the authorities referred to in points is not given a) to c), Čthe Czech Trade Inspection or another body authorized by the Ministry of Industry and Trade; if the authorized body is a professional chamber with compulsory membership, it shall exercise its competence in the area stipulated by another law.

## **PROCEDURE OF THE CZECH COMMERCIAL INSPECTION AND THE AUTHORIZED ENTITY IN THE EXTRA-JUDICIAL SETTLEMENT OF CONSUMER DISPUTES**

### **Proposal to initiate an out-of-court settlement of a consumer dispute**

**(1)** The out-of-court settlement of a consumer dispute is initiated at the consumer's suggestion. **(2)** The proposal referred to in paragraph 1 shall include:

- a)** identification of the parties to the dispute,
- b)** a comprehensive and comprehensible account of the operative events,
- c)** indication of what the petitioner is claiming,

- d)** the date on which the petitioner exercised his right at issue for the first time with the seller,
  - e)** a declaration that the court has not ruled on the matter, no arbitration award has been issued and no agreement has been reached between the parties in the out-of-court settlement of consumer dispute and no court proceedings, arbitration or out-of-court settlement **f)** date and signature of the petitioner.
- (3)** The application shall be accompanied by evidence that the petitioner has failed to resolve the dispute with the other party directly, and other documents substantiating the alleged facts, if available. The application shall be accompanied by a power of attorney if the petitioner is represented on the basis of a power of attorney.
- (4)** The proposal may be submitted in writing or orally to the protocol or electronically via the on-line form on the website of the Czech Trade Inspection Authority, signed by a recognized electronic signature or sent via the data box of the person submitting the proposal. Provided that the proposal is confirmed within 10 days or supplemented by one of the means mentioned in the first sentence, it may be submitted by other technical means, in particular by means of telefax or public data network without using a recognized electronic signature. The proposal may be submitted to the delegated body in writing or electronically using the online form on its website.

Initiation of an out-of-court settlement of a consumer dispute is considered to be the conclusion of an agreement on the out-of-court conduct of the creditor and the debtor on the law or circumstance constituting the law under the Civil Code<sup>42</sup>).

The petitioner may file a petition with the Czech Trade Inspection Authority or an authorized body no later than 1 year from the date on which he / she exercised his / her right under dispute with the seller for the first time.

### **Rejection of the proposal**

- (1)** If the proposal does not contain the essentials under § 20n paragraph 2 or if the documents referred to in § 20n paragraph 3, invite the Czech Trade Inspection Authority or an authorized entity of the petitioner to complete them within 15 days. After the deadline expires in vain, the Czech Trade Inspection Authority or an authorized body shall reject the proposal.
- (2)** The Czech Trade Inspection Authority or an authorized body shall also reject the petition if it finds out from the petition, the attached documents or otherwise **a)** the dispute does not fall within their material scope,
- b)** the case has already been decided by a court or an arbitration award has been issued or proceedings have been instituted in court or arbitration, or an out-of-court settlement of a consumer dispute has already been initiated or completed in another case § 20e of this Act,
  - c)** the applicant lodged the application after the expiry of the period laid down in § 20p, or
  - d)** the proposal is manifestly unfounded.
- (3)** The application is manifestly unfounded in particular if:

it is a petition submitted again and the petitioner does not prove that it fulfilled the conditions laid down in the previous out-of-court settlement consumer dispute, or

**a)** by filing it, the petitioner clearly monitors the abuse of his rights at the expense of the other party.

**(4)** The Czech Trade Inspection Authority or an authorized body shall inform the parties to the dispute of the rejection of the petition together with the reasons for the rejection within 15 days from the date of its receipt, unless the facts establishing the grounds for the rejection are found later. In such a case, it shall inform the parties to the dispute of the refusal without undue delay as soon as it becomes aware of the grounds for refusal.

### **Launching an out-of-court solution to the consumer dispute**

The out-of-court settlement of the consumer dispute is commenced on the day when the Czech Trade Inspection Authority or an authorized body receives the petition pursuant to § 20n. If the Czech Trade Inspection or an authorized body does not reject the proposal pursuant to § 20q, notify both parties to the dispute of out - of - court settlement of consumer dispute and instruct them that:

**a)** they need not be represented by a solicitor<sup>43</sup>),

**b)** can use independent advice or representation or assistance from a third party, the consumer may terminate its participation in the out - of - court settlement of the consumer dispute in

at any stage,

**c)** have the right to express their opinion on the matter,

**d)** mohou nahlížet do dokumentace vztahující se k projednávanému sporu, pořizovat si kopie nebo opisy tvrzení, důkazů, dokumentů a skutečností předložených druhou stranou a vyjádřit se k nim,

**e)** in the cases referred to in § 20u paragraph 2 be informed in paper form or on another durable medium of the termination of the out-of-court settlement of the consumer dispute and of the facts that led to the termination of the out-of-court settlement of the consumer dispute,

**f)** the opening of an out-of-court settlement of a consumer dispute shall not prejudice the right of the parties to seek the protection of their rights and legitimate interests through the courts.

### **Synergies with the Czech Trade Inspection and Mandated Entity**

**(1)** The seller is required within 15 working days of the notification being served under § 20r Provide the Czech Trade Inspectorate or the authorised body with an opinion on the facts set out in the proposal.

**(2)** The Seller is obliged to cooperate closely and to provide the Czech Trade Inspection Authority or an authorized entity with the cooperation necessary for effective out-of-court settlement of consumer dispute.

### **Termination of out-of-court settlement of consumer dispute**

**(1)** The out-of-court settlement of a consumer dispute must be completed within 90 days of its commencement.

**(2)** For particularly complex disputes, the time limit referred to in paragraph 1 may be extended by a maximum of 90 days. The parties shall be informed without undue delay of the extension of this period and of the total time by which the out-of-court settlement of the consumer dispute can be expected to be completed.

**(1)** The out-of-court settlement of the consumer dispute is over

**a)** the conclusion of an agreement between the parties to the dispute,

**b)** a unilateral declaration by the consumer to the Czech Trade Inspection Authority or an authorized body of termination of participation in the dispute resolution,

**c)** death, declaration of the dead, declaration of missing, or extinction of one of the parties to the dispute without successor in title,

**d)** in vain expiry of the deadline pursuant to § 20t,

**e)** rejection of the application under § 20r.

**(2)** On the termination of the out-of-court settlement of a consumer dispute under paragraph 1 letters

b) or c) the Czech Trade Inspection Authority or an authorized entity shall inform the other party to the dispute without undue delay. If the out-of-court settlement of the consumer dispute pursuant to paragraph 1 letters d), informs both parties to the dispute without undue delay.

**(3)** Agreement under paragraph 1 letters a) it must be in writing.

### **Delivery**

The obligation of the Czech Trade Inspection Authority or an authorized entity to deliver a document pursuant to this Part of the Act to parties to a dispute is fulfilled if it is delivered via the public data network to the addressee's data box, which shall be communicated by the parties to the dispute to the Czech Trade Inspection Authority or an authorized body for the purpose of service. The document shall be deemed to have been served even if the addressee has not learned of the service on his part due to circumstances.

### **Out-of-court settlement of consumer disputes**

**(1)** Out-of-court settlement of consumer disputes is free of charge.

**(2)** Náklady spojené s mimosoudním řešením spotřebitelských sporů si strany nesou samy.

The Czech Trade Inspection Authority or an authorized body shall lay down rules for the out-of-court settlement of consumer disputes, which shall regulate in detail the procedure for the out-of-court settlement of consumer disputes so as to comply with the rules under this Part of the Act.

This section regulates the out-of-court settlement of consumer disputes before the Czech Trade Inspection and the authorized body.