

International Product Liability Review

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DECEMBER

2013

EUROPE - GERMANY

Grand coalition's agenda for consumer law and the judiciary in Germany

INTRODUCTION

Following the election of the 18th German Bundestag on 22 September 2013, the CDU (Christlich Demokratische Union Deutschlands) and its Bavarian sister party CSU (Christlich-Soziale Union in Bayern), which together constitute the largest parliamentary group in the German Bundestag, entered into discussions with the SPD (Sozialdemokratische Partei Deutschlands) to form a new German government. On 27 November 2013, the parties of the so-called "grand coalition" presented a coalition agreement containing the political program for governing Germany until 2017. The coalition agreement was signed on 16 December 2013 and the new Cabinet was sworn in on 17 December 2013. Readers may be interested in the specific topics on the coalition's agenda regarding consumer law and the judiciary.

CONSUMER LAW

In the interests of creating a consumer-friendly and transparent marketplace, where safe and reliable products can be manufactured fairly and sustainably, the coalition agreement promotes the elimination of imbalances, and sets out measures of effective law enforcement for achieving this goal. Significant areas include improving information for consumers, as well as enhancing national, European and international consumer law. The coalition agreement also highlights issues in specific industry sectors, including finance, the "digital world", energy and foodstuffs.

Consumer information and organisation

The coalition seeks to improve information for consumers by providing support for existing consumer associations, as well as creating new bodies. Under this policy, institutions such as the product investigations foundation (Stiftung Warentest) and the Federation of German Consumer Organisations (Verbraucherzentrale Bundesverband) will receive additional funding.

The coalition agreement also calls for an independent expert advisory board for consumer affairs. This new institution, staffed with interdisciplinary experts, will publish opinions and recommendations on relevant consumer issues.

According to the coalition agreement, existing specialist consumer centres will be expected to keep the competent public authorities informed of developments in the German market. The focus of these authorities' activities will be changed, and in future a reasonable suspicion that repeated breaches of consumer rights may have occurred will oblige them to carry out controls. The intention is that consumer protection, amongst others, will be recognised as a key focus of supervisory activities for organisations such as the Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway (Bundesnetzagentur), the Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht), the Federal Cartel Office (Bundeskartellamt) and the Federal Office of Consumer Protection and Food Safety (Bundesamt für Verbraucherschutz und Lebensmittelsicherheit).

Consumer contract law will be revised so that it becomes easier to understand and more consistent. In particular, information obligations will be amended to be more "consumer-oriented". Product information sheets will be introduced for the telecommunications and energy sectors.

The coalition also plans to amend the German Consumer Information Act and section 40 of the German Foodstuffs and Animal Food Act. Publication of breaches under these laws has recently been subject to discussion. The intended amendments seek to safeguard the requirements of the principle of legal certainty for such publications.

European and international consumer law

The coalition agreement supports the further development of EU consumer law based on the principle of minimum harmonisation. While calling for the principle of subsidiarity to be more strictly enforced, the agreement envisages Germany exceeding the EU minimum standard for consumer law. Where a particular law could benefit consumers, the coalition will even press for full harmonisation at an EU level.

To safeguard current standards, the coalition will support revisions to the regulation on compensation and assistance for passengers, as well as the package travel directive. According to the coalition agreement, the directive on alternative dispute resolution for consumer disputes will be implemented promptly and in a consumer-friendly way.

Grand coalition's agenda for consumer law and the judiciary in Germany

To further enhance product safety, the coalition calls for the introduction of a European certification mark for safety, analogous to the German GS mark (GS-Zeichen), as well as arguing for compulsory third-party testing of children's toys throughout the EU.

The coalition agreement also calls for the supervision of foodstuffs to be better coordinated and, to this end, the coalition will move for the introduction of uniform standards in Germany and the EU, as well as for the appropriate frequency of control measures.

MODERN JUDICIARY

The coalition aims to strengthen the efficiency of the judiciary. Under these plans, the federal states (Länder) will be given the opportunity to establish bodies specialising in certain matters at District Court level. The legal framework for electronic legal communications and electronic court files will also be enhanced. To safeguard the neutrality of court-appointed experts, the quality of expert evidence will be improved by collaboration between the new government and professional institutions.

COMMENT

The coalition clearly plans to support and expand the institutions that promote consumerism. Besides including legislative reform at the national and international level, its agenda features plans to promote German safety standards at the EU level.

Where reform of the judiciary is concerned, the coalition's plans could affect lawsuits connected with consumer affairs. It is possible that, in future, cases with specific backgrounds may need to be heard by District Court bodies with specialist knowledge in that area.



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