

# Evaluating Legal Protection of the Consumer<sup>1</sup>

**Robert Stefanicki**

The project has met with a great response from practitioners, domestic and foreign experts, as well as representatives of European Commission, courts, public administration bodies and various organisations, including ordinary consumers. Consumer protection strategy is based on the paradigm through comprehensive and transparent information. But obligations imposed on businesses have created the problem of the real costs incurred by them and the effects of these obligations that might be undesirable. An important role in the evolution of the legal culture today is played by the doctrine, with interesting element of this type of transnational cooperation. Materials, in particular the resulting conference and study meetings, have aroused considerable interest and remained a useful source of information for the above persons concerned, whereas in this professionals and legal practitioners. Discussed material is based on the results an independent and external research in education institute.

*Keywords:* consumer protection, essence of this right, cooperation of universities, multi-level analysis and discourse

## **1 Some preliminary remarks on consumer law**

European consumer law is undergoing a transformation with a clearly defined shift towards complete harmonisation of selected domains of that law and promotion of horizontal instruments. The new approach to the harmonisation of national consumer law provisions should be considered in a wider context, including European Commission's

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efforts to harmonise contract law. EU authorities mention the multitude of legal orders but often we hear the question was multiculturalism out of date? Multiculturalism, it should be stressed, was intended to create a more tolerant society.

## 2 Introduction

In the years 2009-2011 we completed the project entitled *“Scientific and educational potential of the Law, Administration and Economics Faculty of the University of Wrocław in the service of a consumer legal protection”*. It constituted the first undertaking of this type at the Faculty<sup>2</sup>. This aspect caused that the undertaken initiative was pioneer in its character and entailed risk and some degree of organizational and administrative difficulties while implementing it<sup>3</sup>. It can be described as an enormous scientific and logistic challenge. It was necessary to work our proper procedures to govern the implementation process. However, due to the fact that the project was paving the way for others, our Institution benefited from it as subsequent initiatives will be simpler to implement. The project evaluation report, which is discussed in detail below, notes that *“it was a promotion of the University as it would be perceived as an academic centre implementing such a consumer’s project. So far we have not had an equivalent project aimed at a consumer in another academic centre. Due to the fact that we acquired specialists from other centres (...) the knowledge on the project was transferred to the centres”*.

The general project’s objective concerned supporting a dynamic development of the educational and scientific potential of the Law, Administration and Economics Faculty of the University of Wrocław, concentrating especially on the activity of the staff of the home Institution in the area of promotion of high consumer legal protection standards in Poland, established by the European Union law with the

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<sup>2</sup> The idea behind the project was to create conditions for sustained dialogue with the external environment of the University of Wrocław; on this concept are open, in principle, our research units, as well as judicial authorities.

<sup>3</sup> In interviews it was noted that the project *“was a phenomenon as it was organizationally difficult for the dean, project manager, coordinators to implement, as there were no procedures which could foresee certain things and as far as I know there were certain problems with settlements and completing certain formalities which gave the project a pioneer distinction”*.

use of an appropriately selected set of means (tasks). The project assumed exposure of the academic staff and doctoral students to the widely understood environment, including research centres of other institutions and institutions participating in the process of applying the law. In order to fulfill the above assumptions we worked out specific objectives along with specially accommodated actions. The latter comprised the actions included in the application: study meetings, scientific conferences with the participation of European law experts and representatives of the Western doctrine, open Internet forums, internships, scholarships for young scientists and specialized trainings. We are currently at the stage of closing the project implementation process. Some of the results will be spread over time. Still, we hope that thereby we promoted true academic cooperation which will be continued in various organizational and substantive forms by different centres not only at the home Institution.

### **3 A report becoming an inspiration ...**

The material presented below is based mainly on the Project Evaluation Report which was prepared upon request of the University of Wrocław by an independent and external Research in Education Institute (Instytut Badań w Oświacie). The evaluation activities were aimed at general assessment of legitimacy of the undertaking which was co-financed with EU funds, analysis of the expectations of the project participants and results of its implementation. Therefore, they do not concentrate on the substantial results of the programme implementation by various organizational forms (applied instruments). However, it does not change a positive evaluation (legitimacy) of the analysis and attempts to make a synthesis on the basis of the collected material, conducted by an independent institute. Evaluations were carried out with the use of anonymous questionnaires including mainly open-ended questions aimed at evaluating particular parts of the project during individual in-depth interviews (IDI). The evaluation was carried out among project participants, i.e. academic staff of the Law, Administration and Economics Faculty of the University of Wrocław, doctoral students who are also beneficiaries of the project and scientists of various chairs and institutes, whose scope of scientific interest

includes among others: consumer law, including the scope of the commercial, international, European, constitutional and civil law. Representativeness of standpoints (opinions) is supported by the fact that some qualified project participants, apart from their academic work, work within justice institutions, legislative commissions or law firms.

Initial analyses concerning the assessment of the subject covered by the project were a starting point for the evaluation. The presented compilation shows that at the initial stage of the project implementation opinions were expressed by independent employees, who usually have a strong relationship with the subject matter and who enjoy professional experience in the area of the consumer law. For them, undertaking the challenge relating to the project was legitimate for axiological purposes, seemed realistic as regards the attainment of assumed results. All parties covered by the evaluation, notice that consumer rights protection is in fact a currently developing branch triggered by the dynamic EU policy, which in Poland is still treated as a niche and placed *“on the fringes of serious research”*. The respondents comment that in contrast to the West<sup>4</sup> – the issue of consumer protection is ranked very low as compared to other branches of law. Respondents even indicated that *“it is treated like a poor cousin”*. The fact that *“for the law practitioners it is not profitable”* translates to this condition. *It is much easier to represent companies than a poor single consumer. Additionally, students studying to become lawyers, become interested in other branches of law”*. In order to diagnose the current condition the observation of one of the respondents that also economists *“do not treat the topic seriously although it is of fundamental significance as regards the functioning of the market and competition systems”* appears to be highly accurate. It is noticeable that lawyers-practitioners and young scientists taking part in the project notice the need to work out a common approach to the system of consumer legal protection. In the dialogue between the legislature and

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<sup>4</sup> As compared to Western schools, Polish schools in this branch are not so much advanced. *“In such comparison we are a bit behind. Because in European schools such research has been stimulated by the EU and they have practiced such approach for a long time. I myself went to Paris to a conference on the consumer issues and the research works there are very much advanced”*.

judicature the doctrine shall assume a principal role<sup>5</sup>. The science of law is not only to diagnose visible, especially in relation to implementation of the EU law in the national order, issues and to propose concrete solutions. The efficiency and comprehensiveness of protective mechanisms must include both an appropriate standard of the positive law but also efficient tools in its enforcement. The respondents directly stressed the need of effective application of adopted regulations: *“it is not so difficult to enact a law and to impose it. What is more difficult is to make it function, i.e. so that judicature accepts it and begins to apply it – it is a huge effort. Yet, the most enormous effort is to make the law (...) part of the awareness of people living in given times”*. The article presented below includes opinions of the project participants concerning particular project tasks, planned and completed, aimed at obtaining assumed results. It also contains general reflections diverting from the assessment of concrete instruments aimed at complete attainment of the project objectives.

#### 4 Study meetings

The participants covered by the project evaluation agreed that it would have a positive impact on the development of the scientific unrest<sup>6</sup> in the area of the consumer law at the University of Wrocław. In fact, the evaluation of particular tasks carried out as part of the project differs but at the same time participants indicated their coherent and multifaceted character: *“the programme was very well prepared, it was multifaceted and in fact it covered all the subject matter. It is like to watch a film in ten episodes with every episode covering a very important issue from a bit different area”*. It was noted that *“the consumer law is very difficult as it is not a single branch in which you open a book and everything is there. It works when one has a comprehensive approach and is able to present it as a whole. This project was very well prepared as it comprised civil-legal and public-civil approaches and penetrated the sectors. It is mastery in selection of issues”*. Among the means aimed at attaining the project results,

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<sup>5</sup> For example, on the background of diverging interpretations of Directive 2005/29: U. Bernitz, U., S. Weatherill (2007).

<sup>6</sup> One of the respondents defines “scientific unrest” as stirring interest among young people.

participants stressed the importance of study meetings and stressed basic functions of this instrument as a tool to integrate expert environment in the examined area. Looking realistically at the work of integration of scientists and practitioners of the examined field we may, having completed the project, assume with full responsibility that we are only at the beginning of the way. However, the initiative will further evolve not only within the University of Wrocław. The attitude towards authentic cooperation of scientists within different spheres of the law is rare<sup>7</sup> in Poland. This objective cannot be achieved by a forum which is founded on fifteen-minute long lectures where participants do not have time to concentrate on the issues and carry out an authentic legal discourse. As part of the two-year project we assumed and completed the concept of cyclic two-day study meetings of a fixed set of twelve experts in the consumer law. The fact that we introduced a rule that from the first to the last meeting we would have the same set of people working on the issues allowed for achieving an in-depth and comprehensive approach to selected issues, continuation of started threads on subsequent meetings, working out certain conclusions in the area of mastering the law, which is very often enacted, due to the requirements of timely implementation, in hasty procedures and in a thoughtless manner. The participants openly indicated that the structure based on a fixed team of specialists dealing with the consumer rights protection is advantageous as it allows obtaining subject integration and facilitates achieving concrete scientific goals. *“The period of the last two years facilitated the integration of search and research to a great degree. A team was created thanks to cooperation with acknowledged specialists from other centres. Thanks to study meetings we were able to revive activities in this area.”* So far in Poland *“science has been on a quite good level but it is dispersed. Meanwhile (...) cooperation between institutes proved that the work on the protection of consumer rights is not only dispersed but the area as a whole is highly diversified.”* Moreover, it was pointed out that this form of cooperation of scientists creates favourable conditions for development of the legal

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<sup>7</sup> This rarity is stressed by A. Mączyński, Comments on the condition of Polish civil law education, 2011, no. 6, p. 13.

culture<sup>8</sup> and initiating research undertakings as every centre will feel appreciated. It should be noted that in the said meetings participated doctoral students and young doctors who did not participate in them as qualified persons. The project *“influenced, first of all, the development of research elements, as the scope and scale of the project was broad enough to enable the University to establish cooperation with a broad substantive scope and in a broader scope it enabled cooperation aimed at specific goals in the whole Poland.”*

The format of the study meetings was evaluated by the participants as *“extraordinary”* giving a chance for effective and creative cooperation. Fixed participation of experts of various branches and institutes was assessed as an optimum environment from the perspective of assumed objectives. It gives great satisfaction to the initiator and the person conducting the project at the same time as this person managed to retain the concept despite raised doubts as to the selected strategy. The respondents stated among others that *“these were persons dealing with different branches of law. The core of the team were persons dealing with private law but we had specialists from the public law, economists and legal theoreticians, who addressed the issue from the side of economic analysis of law. It is a combination of various specialists and different points of view on the same issue which had such a good result”*. Moreover, they stated that *“constant contact between participants ensured the possibility of collaboration while selecting topics and regular supplementing of the agenda”*. The participants also stressed the friendly and *“unique”* atmosphere of the meetings: *“very interesting format (...) it enabled a smooth flow (...) of observations, unification of positions, expressing doubts which were freely presented during discussions in which we could agree and discuss issues more openly than during a conference.”* The above opinion does not change the fact that in many substantive issues the assessment of the same phenomena was diversified. As long as the discussion revolves around specific arguments the legal discourse brings value even if in many issues the agreement is not achieved.

Persons giving opinion on the project placed a lot of stress on including a comparative approach during meetings and conferences,

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<sup>8</sup> The differences in modern contract law between the Europe and Asia mainly result from the historically determined different functions and substance of party autonomy, Fu J. (2011).

especially at the conferences the comparative legal analysis was supported by the participation of renowned Western consumer law experts, participating in the national process of implementing the law and co-creation of the European normative achievements<sup>9</sup>. The conclusions of the meeting participants prove that in smaller circles, especially younger scientists and doctoral students feel more relaxed and are more open to exchange their opinions. They stated that the openness, following the format of the study meetings, was only present in informal discussions held during breaks in conference sessions. Putting it differently, the respondents stressed the possibility of holding an informal discussion behind the scenes: *“the atmosphere was relaxed and was a continuation of the atmosphere created at study meetings. It allowed a lot of freedom of expression and sometimes leaving the organized linear thread of the discussion and allowed for discussing margins of the topics covered by a given speaker”*. However the image created on the basis of the report must be corrected due to the fact that not all project participants agreed to completing a questionnaire or giving a relevant interview. Thereby, I wish to stress the fact that at the first conference, young project beneficiaries were a bit embarrassed and might have been uncertain of their viewpoints and therefore their participation in the discussion at an open forum was insignificant. However, the second conference, also organized as part of the project, was based among others on the knowledge and experiences gained at study meetings, completed national and international internships and achievements resulting from the use of the scholarship system (within the project). When looking at the positive project experience as a whole one can see significant and substantially mature participation in the discussion during the last conference concerning, among others, the weakness of the process of transposition of the EU law into the national system, lack of tools for adjustment of the procedural law to the consumer protection standards provided in the substantive law and different barriers in the access of a consumer to the courts of justice. Their observations and conclusions were a reflection of the clash of practice and theory, ideas on the proper functioning of institutions (authorities) versus the reality which clearly diverges from the model.

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<sup>9</sup> See F. Cafaggi F. and S. Grundmann S. (2011), J.-Ch Hülper,,T. Jürgen (2011), G. Howells., R. Schulze (2009).

The belief demonstrated by participants that it is possible to improve the existing standards was really inspiring.

Thanks to the study meetings we were able to present, discuss and achieve agreement or openness to important issues related to the consumer legal protection. It was possible due to the multi-level and in-depth analysis of specialists who contributed their scientific experiences and observations concerning the functioning of positive law standards in practice to the meetings. The respondents stressed the fact that *“it was possible to create a team, which for two years met and discussed a few very important issues concerning the consumer legal protection. This is the problem of transposition, implementation of the EU law in Poland and difficulties related to it, further approach, a problem of an optional tool which was brought up during the project because earlier it was, in fact, non-existent (at the beginning of the project there was a spirit of maximum harmonization)”*. Current problems of the European legislation were at the centre of discussions and the mentioned conferences. Based on the model of complete harmonization, the proposal of the European Commission of 8 October 2008 on the consumer rights covering four consumer directives sparked a wide-spread discussion of interested circles and attracted criticism of member states and the very European Parliament. Discussion on the limits of EU legislation and private law of member states constitutes an important lesson for young scientists who are only beginning to explore the subject of the project. In the presented opinions there appeared a thread of interdisciplinary approach to research in the environment of the home Institution and to include external experts in the programme: *“not only employees of our faculty but also representatives of other faculties not only of one branch of law but of many branches participated in the meetings. It became another layer which lead to the development of certain issues which would not have been brought up if such meetings had not taken place. For me the in-depth analysis of all subject threads would not have been possible if I had studied the issues on my own”*.

The report asserts that we were able to establish a thread of cooperation with various research centres. The respondents noted that the project only starts the integration of the legal environment and the process should be continued after the project: *“we with the persons who*

*came here have been cooperating for a very long time still maybe in different areas. In the case of the consumer legal protection the cooperation was increased".* Even the beneficiaries of the project who met project participants before (before the project) on various levels indicated that their participation in the team was an added value: *"I know most of the people. (...) We got to know each other better with the people here, apart from that only in the area of the consumer law, so we could get to know each other better and discuss certain issues more openly (...) and we could also get to know people dealing with the subject matter in the nearest surrounding and establish direct contacts with the persons who deal with the subject matter outside the faculty and at the faculty".* It is a very important comment concerning the significance of interaction also within the Institution.

The presented results show that thanks to the implementation of the project, i.e. using this instrument, we were able to prepare a collective publication based on author's materials prepared by participants of the study meetings outside lectures delivered as part of the project. In accordance with the project assumptions it was to bring a new value, a collective work based on the initiative and experiences of study meetings. The group of participants of the forum from the very beginning of the project implementation knew that the final result of collective activities, exchange of experiences over two years' time span will be a publication which will be also addressed to the Codification Commission (*de lege ferenda* proposals). The respondents noted that *"the value of the work will be the fact that it was produced at the time of very important EU changes"* implemented under the influence of critical reactions of institutions and opinion-forming circles as a reaction to the attempts of the union legislation to penetrate too deeply national orders, especially in a situation when another set of regulations is based on the model of complete harmonization.

The evaluation report provides that the added value in the area of education was achieved. The project assumed that the implementation is to be subjected to attaining tangible results both in the scientific and educational areas. Both subject matters are closely intertwined with each other and their scopes merge. In order to realize this two-fold perspective in the project, organizers guaranteed participation of both scientists – lecturers with vast experience in the substantial law as well

as representatives of young scientific staff and doctoral students. It is worth noticing that the format of study meetings and substantial conferences and the Internet forum, described below, were open to all parties. Putting it simpler it allowed students, doctoral students and doctors to participate in the project as qualified persons and not as participants. The doctors prepared papers for study meetings and thereby contributed to the project in manner not related to formal benefits (benefits under contracts of mandate).

Young project participants noted a change which was brought about in their approach to the subject matter under the influence of the project. Some of them stated that they put more emphasis during their classes on the practical application of law: *“It is worth stressing the practical aspect as there is very little of the law; there is still too much theory and too little [setting] in practice. Study meetings put pressure on the law in practice, from the practical side. It is of high importance to teach students how the law operates and not what it is like but how it works in practice”*. As a valuable teaching experience, participants indicated the inter-disciplinary approach to the achievements of the consumer law. Thanks to the study meetings young scientists could enrich their knowledge and experience as they could participate in joint discussions and disputes: *“we were able to collect the most recent views concerning the branch, the most current and from very good specialists. It is very valuable when people who deal with the subject matter may sit at the same table and talk about it. It does not happen so often. We were able to listen to each other at the same time and ask questions and talk about the most important issues”*. It is inspiring that young people manifest their willingness to take an active part in the process of mastering the law and will to affect actual standards: *“the most valuable for me was the possibility of discussing (...) views (...) and the possibility to obtain information on the latest trends in the area of EU consumer protection”*. This added value cannot be perceived from the individual point of view but it should be perceived in the category of usability for the Institution both in the educational and research area. One opinion stressed that *“the benefit is that the quality of knowledge of university employees is improving and this is (...) an investment in people who thereby develop, which will bring benefits in the future by increasing the quality of classes and maybe by some*

*collective works on the subject prepared by people participating in the project*". It was also stressed that *"as far as the institutions are concerned many people became involved in the project which increased the level of knowledge thanks to participation, preparation of papers, articles etc"*.

The analysis reveals that the study meetings were highly appreciated. During the first discussions on the project, respondents started to talk about them spontaneously which means that they treat it as a hallmark of the project. Some of the respondents noticed the need to plan more such meetings or devote more time for particular meetings so that additional areas of the examined field could be also covered: *"it is worth following good solutions adopted in other legal systems and make use of experiences of others. If we had more time during the meetings I think we could include a legal-comparative perspective and it would have been an added value here"*. One comment on the proposed lengthening of study meetings and increasing their number is of importance. In theory this concept is right considering the wealth of legal issues relating to the contemporary consumer protection. In practice it is difficult to implement as for the participants it was very difficult to devote two days out of their normal professional (teaching) and scientific activities. The obligation to meet cyclically in such meetings was an enormous challenge. Therefore, I must state that the process of organizing a team was very difficult and required a lot of organizational activities and involvement of the supervisor of the study meetings and the whole project team. Many respondents indicated that the study meetings were this part of the project activity which facilitated accumulation of scientific experience: *"(...) it was the highest dose of scientific experience"*. It was also noted that *"the format of meetings in smaller groups (...) enabled direct discussion"*. Young scientists (doctoral students) highly appreciated the partnership atmosphere which was created among the persons participating in the programme. However, it should be stressed that we had to work hard for such state. It is worth noticing that young beneficiaries of the programme co-financed from EU funds were thoroughly prepared to the participation in different forms of the project implementation by a

cycle of meetings organized by the meetings supervisor<sup>10</sup>. It created a final feeling of distinction and also of accountability relating to the participation in the project<sup>11</sup>. Participants appreciated argument-based discussions held in this forum which also contributed to empowerment of the centre: *“I could present my intentions at this forum and I could expect comments, observations and suggestions as feedback.”*

## 5 Scientific conferences

As part of the tasks envisaged in the project a weighty place was given to scientific conferences. Every one of them served a different function but both of them were subordinated to basic objectives of the undertaking. They were designed as an open forum where people exchange their scientific experiences and those resulting from practice in the field which nowadays is called a strategy of consumer legal protection. The first of them concentrated on the current trends in the EU consumer law and the second on the potential and real standards of consumer legal protection in Poland. An important feature was to open the home Institution to external environments including national and foreign scientists, representatives of EU bodies, representatives of legal professions, institutions implementing consumer law in the public interest and consumer organizations and entrepreneurs. This wide representative group of carefully selected conference participants and lecture subjects allowed for working out a multi-level and comprehensive approach to the subject matter and identifying weak points in the protection mechanisms. The latter included, first of all, consequences of the selected manner of implementation of consumer directives for the national legal system. The degree of difficulty of the transposition process becomes more severe when some of the secondary acts of the law are based on a model of complete harmonization. Therefore, the exchange of experiences of member states in this area is of significance. Respondents participating in evaluation sessions unanimously stressed the importance of the very

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<sup>10</sup> Professor Józef Frąckowiak was the supervisor.

<sup>11</sup> Meetings preceding the study meetings and commencement of the first session reflected the climate of mistrust and in particular lack of understanding for the role of the project manager, whose task was to promote valuable initiatives and good practice in science”.

participation in this forum given the fact that it was a layer of comprehensive exchange of national and foreign experiences. Contact with the Western science is today more close and the Western doctrine is open to invitations to participate in the exchange of scientific thought and invited guests do not have unreasonable demands. By completing a list of lecturers I was nicely surprised by the approval of the presented offer. Such positive experiences may constitute an assumption for future scientific initiatives. A comparative approach serves broadening of the scientific perspective, building a common Europe based on different values and traditions and common rules. The conferences brought together renowned experts of the European doctrine who very much care about the negotiation-based model of creating both European and the national law. Creation of the latter is particularly difficult when legislative competences are held by both the European Union and the national legislator. Lecturers of the forum concentrated on the issues of national implementation of the directive based on the mentioned model of complete harmonization and discussed the issue of limits of spreading of the European regulation throughout the sphere of the private law, especially when relying on the assumption of uniformization of legal standards. The respondents gave straight answers that *“there is a huge difference in comparison to what was before [before the project]. I remember when I started work on my doctoral dissertation I had more limited possibilities to meet experts, people who have knowledge on the subject”*. They also indicated that the representatives of the foreign doctrine were also active in the discussion held both at the conference forum and behind the scenes: *“usually such persons appear in Poland only where they are to deliver their official and formal lecture and after that they leave and that is it. And here it was really favourable to gain our subtle experiences”*. The project respondents also noted that during the conferences the disputes that the participants engaged into were based on substantive arguments which are specific for mature circles. They directly pointed to the fact that *“there was a lot of debate, critical discussion on the EU’s approach to the consumer issues and we had a great lesson in the European Union law, consumer law harmonization and a clash of the concept of a EU legislator and the national legislator”*.

The possibility to collide the theory and practice, opinions of representatives of the material and procedural law, institutions exercising the consumer law under different procedures was an asset of the conference forum. The respondents noted that: *“there was a practical approach, that is a lot of judicial decisions (...) As creation of law is one thing and the application of law another and it is very often the case that the EU legislator has an idea which appears to be fantastic and in practice it fails. (...) It was very valuable for me to listen to practitioners, civil lawyers, private law specialists and learn what kind of problems the European Union generates”* in the process of law harmonization, *“if the instruments are too far reaching”*. The comments include a very visible confrontation of the hitherto experiences of beneficiaries and the experiences gained in the course of the project: *“I had a different view of a theoretician so I benefited from the meetings with practitioners to a great degree; they made me realize that some things do not work in practice or sometimes work ineffectively. For me it was very beneficial as so far I have had views on how the European Union sees it, how the European Commission sees it but I did not have much knowledge about how it works in practice”*.

Summing up experiences relating to the participation in the project, the respondents expressed opinions that by this project this branch of law increased in importance and likewise their individual ideas of the importance of development and undertaking scientific challenges in this area. It was caused by, among others, participation of the top doctrine representatives who guaranteed high quality of lectures and legal discourse and who encouraged to undertake scientific initiative. One of the project participants summed her experience in the following way: *“I had a lot of fun to talk to people I know from literature. (...) the possibility to house specialists of this format and to strengthen international cooperation. We received an invitation to Santiago for our employees and to exchange the employees.”* In our opinion it stresses the tangible benefits of substantive interaction with the Western centres for our research work: *“when a person has some doubts while working on an article then one may call and discuss the issue with another person from another faculty which is highly valuable as sometimes when studying someone’s publication it is worth*

*consulting it with the source and ask about the author's arguments while adopting a view".*

While implementing and finalizing the project one can not foresee how spontaneous and positive reactions will translate to future scientific research directions and other activity in the area of the general consumer law. As such far reaching impact of the project or its lack (diminishing) will have influence on later professional and scientific experiences and the entirety of external conditions. Currently some participants declare directly that they will pursue their professional career in this area: *"the project sparked off revival of the issue. At the forum of our chair, the issue became a more frequent subject of our discussions and subject of Master's theses given to our students"*. Participants frequently noted that *"thanks to the project the law grew in importance, and made people aware that one may actually deal with it, examine it and change something with it especially in the legislative scope. (...) For instance in our chair there are other important topics – for example the commercial companies law – which unfortunately pushes the consumer into the background. I believe that the law gained prestige."* We should be optimistic about the opinion that *"the project aroused interest of new people in this field and if the project had not taken place I would not have become involved in the protection of consumer rights with such intensity"*. Given the anonymous character of the responses included in the evaluation (questionnaire) one may hope that the declarations are spontaneous. Younger scientists see benefits first of all for themselves. Thanks to the gained knowledge, established contacts and the publicity which accompanied the project, they are building their confidence in the field which they are currently dealing with.

Both organized conferences were assessed by the respondents positively. Young scientists indicated that the conferences allowed them to extend and systemize their knowledge. They stressed the cross-sectional, diversified and attractive character of the lectures. They also appreciated the search for a common platform for economic and legal research at the conference. In this area we are only at the beginning of the way and we cannot go back. This direction of integration of science is desired as economic analyses of law constitute a current basic standard in the assessment of legislative projects and should be

performed also *ex post*. This integration approach to the fields was noticed and accepted. The lecture of the representative of the European Commission on the economic analysis of law, in particular discussing “*the impact analysis*” of the proposal of the Commission dated 8 October 2008 was assessed positively. “*The lecture of Professor Lissowska from the European Commission on the impact analysis is engraved in my memory. A very difficult topic was presented very plainly – I liked it very much. There are few persons in Poland who deal with it. For me it was the icing on the cake*”. Also during the second conference the economic approach was reflected in another lecture of the European Union specialist. Among the benefits of the assumed format, the respondents included interdisciplinary and multi-level approach<sup>12</sup> in standpoints presented by experts, combining material, legal and procedural instruments in the consumer protection strategy: “*The lectures covered different branches of law. However, as far as consumer law is concerned the perspective was diversified*”. Project participants noted the complexity of the problem which is created by a comprehensive approach to the strategy, i.e. consumer rights protection: “*people of different branches of law participated in the project and the things we talked about from the perspective of different solutions made us realize that when looking at the issue of the consumer law we must not be limited to only one law as the issue is broad and extends outside a conventional train of thought. It is a separate branch of law which combines elements of various laws, more elements of some branch and less elements of the other but it is not something unidimensional*”. It was repeatedly noted that “*it is a branch which covers a selection of different branches of law in particular component elements which create the whole of the consumer law*”. A lot of pressure was placed on the use of foreign experiences, which is of importance here as – as I mentioned it above – the Western doctrine has a significant impact on the entirety of the codified law: “*the international character of the lecturers including the European Commission, participation of experts and practitioners – different*

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<sup>12</sup> However, in accordance with another opinion “*the weakness of the project was that there were no representatives of other sciences. I highly appreciate the intimacy which the project created but I feel there might have been a more inter-disciplinary approach*”. In my opinion, given the composition of the conference lectures this opinion cannot be upheld.

*views, different emphasis of the consumer legal protection policy*". Participants appreciated the diversified approach of people of science to the consumer protection standards set to a large degree by the EU law: *"a professor who represented one of the German universities presented his research perspective and these are always interesting considerations connected with the implementation of directives which is performed by the states differently"*. The value of *"the legal comparative approach to the consumer legal protection"* was also recognized. The approach should serve the improvement of the quality of our national law: *"the conferences were to present certain self-evident facts but also totally new both by persons who have dealt with the issue for years now and also by persons who have just started. Every approach presented to us was useful (...)"*.

The respondents in their opinions frequently mentioned the need for more intensive, than it actually was, involvement of law practitioners and representatives of particular institutions and consumer organizations in the above discussed activities. They pointed out among others that *"a competent representative, i.e. the president of the Office of Competition and Consumer Protection was missing"*. *It is good that we were privileged by the presence and participation of a representative of the Office of Competition and Consumer Protection from Wrocław. I believe that the protection of collective interests of consumers should not be, as it was pointed out by a representative of the Polish consumers, "on the fringes of the office activities"*. The above observation fully deserves an approval as participation of the said groups would enable to achieve a comprehensive approach to the strategy of consumer protection and would enable to examine weak, present in practice, points in the legal protection of an entity which is the last link in the market exchange. Some of the respondents indicated that this institution should be also present at the study meetings and conferences by saying that *"maybe the Office of Competition and Consumer Protection should be rather present at study meetings. Firstly, this institution would bring its own real-life experiences. Secondly, the office would be the addressee, of many presented demands, and could listen to them"*. In other comments the need of participation of representatives of different institutions was mostly associated with conferences. However, it should be noted that

representatives of bodies implementing a public-legal procedure of protecting collective interests of a consumer were invited to take part in the conference. Among others, the president of the Office of Competition and Consumer Protection in Warsaw was invited to both conferences but she did not grace us with her presence and she did not delegate a competent representative. The president did not give reasons for lack of interest in this forum. It might be useful to mention that a representative of the Łódź Office of Competition and Consumer Protection took part in the second conference. His comments cannot be overestimated as he clearly listed basic problems of the office in the area of protection of collective interests of consumers and indicated complex problems relating to practical application of the consumer legal protection.

Young scientists pin their hopes on the project that it will significantly enrich their own scientific experiences: *“The project enriched my own doctoral dissertation. I benefited from it and I think I was lucky that at the end of my doctoral studies I had the chance to participate in these conferences and it really enriched my dissertation. (...) My dissertation was written from the perspective of public law instruments so I relied mainly on the elements of the administrative law. However, by participating in the project I could have a look at the whole and I saw one hundred percent. For my dissertation it was important because the public-private and civil-private trends clash not to say that they compete with each other. It was a really enriching experience. If the project had not taken place I would not have devoted so much attention to the civil and legal protection.”*

Moreover, programme participants perceived the tasks realized as part of the project in a wider scope also as activities supporting Polish specialists who at different forums participate in the creation (giving opinions on) of the European law: *“it is necessary to build a base for Polish specialists who participate in the creation of the EU law. It is an important element as we are not only consumers but also creators of law. It is important that a Polish specialist has sufficient information on what the situation is like here in Poland and could present and defend Polish interests at the EU forum.”* In comparison to the forum of study meetings i.e. small groups, scientific conferences which are governed by different rules, they attract wide publicity, however, as a

rule they do not create a climate to establish strong interactions of scientists or scientists with practitioners.

## 6 Internet forums

One of the tasks realized as part of the project was to create and ensure functioning of the Internet forum. The vision and character of the forum was presented at the first conference by its supervisor<sup>13</sup>. With the use of the instrument the environment of the home Institution and external entities were to gradually open to crucial issues of the subject matter covered by the project. While preparing the project concept in this area, the creators experienced some dose of uncertainty as to the success of this tool as it is new, it is not supported with practice as compared to other similar organizational and subject matter tools. Therefore, it was difficult to specify actual usefulness of this tool and most of all the scale of Internet users' activity, the degree of their involvement in enriching the forum content, disputes. According to the opinions of the respondents, they liked the idea of the Internet forum very much as an idea of quick communication also in the area of consumer rights: *"it was an innovative idea to exchange scientific views via the Internet forum and this is only the beginning. This is a pioneer idea. The direction is definitely good. We should build some information base on it"*. However, the respondents were also aware of the difficulties which may be experienced in the process of implementing this concept: *"It is necessary to fight to make it even more popular and it is a long process. This is a pioneer activity and I have not seen such a scientific forum. The best way to exchange information and hold discussions is the electronic form and we can not change it. I deal with public information on a regular basis and I see that there has been a fundamental shift over the last few years and the conclusions and discussions moved to the Internet"*. It was also noted that *"it is a forum of exchange of ideas and it serves the purpose of communication and consultation between centres. It could be a*

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<sup>13</sup> Anastazja Kołodziej Ph.D. was the supervisor.

*permanent solution. If it could be prolonged it would be an important [development] in the exchange of ideas”.*

Young scientists liked the very format of exchange of scientific thought and experiences of practitioners via the Internet and the possibility of confronting one's own viewpoint with the opinions of the others: *“This format allows for presenting one's observations not only by writing an article. One may present his/her viewpoint and it does not have to be elaborated on ten pages. (...) It allows for better exchange of information”.* In some observations, traditional forms of scientific communication were confronted with author's materials presented at the said forum: *“an article has its requirements and it is obvious that not every thought may be effectively presented in an article. And here one may write and read faster”.* The respondents giving opinions on the forum note that *“the unlimited reach is the most valuable. One could express one's opinion and confront it with a great number of people (...). A positive thing about it was that there was a forum where one could discuss consumer rights”.*

The addressees, in a broad sense, of the tasks – the project did not introduce any limitations – could select topics in the subject matter covered by the project, express doubts, get involved in a legal discourse. The forum supervisor at the conference opening the programme presented an open set of issues for discussion not imposing any limits on the resourcefulness of potential users. In the questionnaires the respondents noted that the presented *“topics were interesting and users can discuss current issues. I myself reported an issue of selling medicaments via allegro. One may write about an issue straight away, about an issue which has just arisen”.* Therefore, we are able to update the materials in this manner very quickly. To some degree the quality of posts was guaranteed as users had to register upon the access to the Internet forum. However, there was no censorship on posts but the above indicated limitation related to the logging requirement and allowed for directing communication to the project's objectives.

The respondents noticed the need of using modern forms of communication, i.e. this forum and see it as a promising means of communication, still they admit that they do not use this form actively on a regular basis. Sometimes as a reasons for being passive they indicated the hitherto habits concerning the use of traditional forms of

scientific expression. Among presented opinions there were views, fortunately rare, that this Internet form is in contradiction with scientific expression: *“I am opposed to Internet forums as there are so many of them and they are so laconic and shallow that they do not extend anybody’s knowledge. (...) Internet forum is not worthy of dealing with scientific matters. It does not allow for subtle presentation of content and a relevant exploration of the subject”*. One cannot agree with the position that forum posts *“are by nature short, laconic and they do not have any dynamics which is usually displayed by a lecturer and every post at a forum should be a twenty-page long article and this would be a contradiction to the forum”*. It should be noted that the rule established for the Internet forum was the freedom as to the selection of subjects and the character of discussed issues of consumer law and the variety of presented material. Some of the respondents indicated that lack of time is the cause of not getting involved in this challenge: *“I took a passive part in the forum, i.e. I observed the forum with interest but so far I have not posted anything”*. Anyway the Internet forum aroused interest in the project beneficiaries: *“I visited the forum and I like it. However, I must excuse my absence due to time shortage. Frankly speaking, I did not have time. I read some posts on the forum and I like it. I think that the idea is right and I would like to devote more time to it”*. There also comments summing up this undertaking: *“The result was rather satisfactory. It was not disappointing but we did not achieve such interest as we had assumed”*. Definitely, for the creators of the initiative such comments as below are inspiring: *“It is necessary to fight to make it even more popular and it is a long process. This is a pioneer activity and I have not seen such a scientific forum so far*. Therefore, the respondents see the need to work on changing habits and a traditional approach to new forms of communication, also in science. It should be an effect of long-term activities performed in various programmes.

## **7 Scientific internships**

Amongst the instruments used to implement the project a prominent place was occupied by the national and international internships. The purpose of internships was to increase competences of the academic

staff of the Law, Administration and Economics Faculty of the University of Wrocław. The trainees were selected in an open competition. While working on the concept of the application I believed that the internships would become attractive to potential addressees by the very fact that the centre concerned would not incur any costs and there is a wide selection of internship destinations. They may become a source of new experiences and inspiration for further surveys. The reality forced us to modify our approach. In total, we organized seven internship competitions. The assessment presented in the report shows that the internships served a scientific, academic purpose and became an important experience in the project subject matter. Programme participants indicated various benefits of the internships. First of all, the practice of this type, if employed in EU institutions, allows for learning the mechanisms of creating the European law. A trainee has the possibility to observe the process on the basis of vast documentation which proves that e.g. the dialogue between the European Commission and Member States takes place. One of the trainees indicated benefits of the internship: *“That was the time when the directive on the consumer loan was being implemented along with the Polish regulation and I have been dealing with it for more than 10 years. It was a great moment to see how the directive functions in different countries. From clearly substantial reasons as I know the area very well but I do not know how it functions in Europe.”* Thanks to the internship I could obtain information which otherwise I could not have obtained. And lastly, it will allow for publication of analyses corresponding to the reality *“It gives the opportunity to go over procedures files, documentation (...) knowledge which normally is inaccessible”*. Another participant of the programme noted: *“I benefited from the library a lot. I worked out public and legal protection in the Spanish law. I am very glad because I worked in Spanish only, with a huge help of my supervisor who recommended appropriate publications to me. (...) I am planning to write an article – public and legal protection in the Spanish law.”*

The respondents put emphasis on the results such as the opportunity to establish a regular cooperation with foreign centres where the internships were held: *“I will continue cooperation with the University of Santiago de Compostela, where I have just returned from*

*and I met fantastic professors of the branches I am deeply interested in.”* In one of the comments the respondent stated that *“the established contact resulted in a proposal of writing a joint study on the consumer law in France and Poland”*. Benefits of internships are visible on many layers also in the category of enriching the host institutions and the contribution made by the beneficiaries of this form of support: *“My study will be provided to the main pharmaceutical inspector and the minister of health. I hope that it will bring fruit in the future. They were very much interested in the aspect of a patient’s protection as the consumer’s aspect is here of secondary importance. They definitely do not have such knowledge and I already provided them with the EU judicial decisions in the cases of selling medicaments to civilian population and they were very much interested in it.”*

The benefits of the internships include both the substantial (cognitive) and teaching sphere. Experiences gained in other academic centres may become an inspiration for a teaching process: *“I appreciate the Spanish very much because they are very straightforward and they treat students as partners. I am not saying that it is bad or very bad here. It is different. The distance is great and sometimes huge. The cooperation between a teacher and a student is very flexible there (...). A close, friendly contact with a student does not exclude high requirements. I liked this teaching approach very much and I will surely try to learn something from them”*. Among the benefits of internships for the teaching and scientific work are the mechanisms of applying the law which were learnt in practice in the institutions: *“One may provide students with information on how an office works and what kind of problems are experienced there.”* The interactions between the completed internship and a teaching work are directly indicated in the following statement: *“[I obtained] a lot of information which I can provide to my students”*, in particular *“how certain regulations are created and the manner of implementing procedures in the European Commission”*.

Internships in institutions and bodies responsible for creation and implementation of law identify problems in practical dimension which appear on the way to the assumed but still not achieved coherence of the system approach to the core of the consumer law. Lack of coordination between particular directories of the European

Commission and also changes in the task distribution become one of the reasons for regulations incoherence, overlapping of regulations and institutions' competences which causes that the EU law is not clear enough. The respondents in their opinions stress that the experiences gained in various public institutions gave them a view of the reality differing from reasonable expectations as to the desired condition.

The evaluation of the project proves that the scientific and teaching experiences gained during internships enabled to achieve scientific results in the form of new publications of author's materials and even the possibility of joint studies with scientists from host institutions. These practices opened the path to cooperation of the University of Wrocław with the centres where internships were carried out especially as part of exchange between institutions. Internships in public institutions strengthened the need to learn the reality of applying law and in certain cases they resulted in proposals for trainees to prepare legal opinions. Substantial and practical experiences translate to understanding of legal issues and extend the teaching skills of trainees.

#### Scientific scholarships

Scholarships – among the project activities – given their objective were an important element – for people dealing with the consumer protection issues, doctoral students and doctors. Beneficiaries participating in the research indicated among others the possibility, thanks to such support, of concentrating on scientific work: *“one of the main motivations to participate was the scholarship, which was not low, which allowed me to concentrate on my scientific research. (...) It gave me financial independence”*. *“The scholarship is an ideal form as it allows the beneficiary to concentrate on one problem for a longer period of time which results in better outcome”*. They indicated concrete manner of using the funds i.e.: *“purchase of materials and scientific aids, monographs and commentaries”* and organizing trips for scientific purposes. Awarded means enabled: *“to visit different scientific centres, to conduct a preliminary survey of the library holdings. Therefore, I could afford a few trips to Germany. I also examined the Czech and Slovak law. (...) The EU law is an extra-national law and the differences in its implementation are visible in the national law”*. Scientific works are tangible results of the scholarships. Trainees stressed the strengthening of the relationship with the

Institution by creating a chance of development within the project: *“I must complete my doctoral dissertation but I think I have a few more ideas for development in this direction, a few articles to write and in the future I will pursue a career in this area.”* Due to a limited time span of the internship in many cases gained experiences became a starting point for further pursuits: *“I did not exhaust the whole subject matter, I will continue examining it”*. Therefore, various instruments used in the project constitute – or could constitute – a scientific inspiration for further research and enriching teaching skills.

The results which the respondents achieved concern both soft and hard results of the project: *“I could write articles and studies within a short period of time, which requires a great outlay of time and the scholarship enabled me to deal with the subject matter. I conducted questionnaires among pharmacists and it was only possible thanks to the scholarship.”* Thanks to the scholarships young scientists could intensify their research work into the widely understood protection of consumer rights. Scientific studies – publications and subsequent parts of doctoral dissertations are the main result of the scholarships. The effort invested in the research translated into the awareness of complexity of the subject matter and possibilities of further exploration. One may come up with a more general reflection. Scholarship beneficiaries of the project took part in different tasks which were discussed above, including study meetings and conferences and most of them also in internships. These instruments serving to enrich the research perspective and useful experiences for education affected the beneficiaries of the project<sup>14</sup>.

## **8 The merits of consumer law**

Research project related to search for links between substantive law and the processualisation of consumer law and the role of public instruments in the consumer legal protection system. Procedural law is not an embellishment but an important element of achieving the aims

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<sup>14</sup> A monographic study – *Konsumencka sprzedaż leków w aptekach internetowych*, Wrocław 2011 - by M. Podleś, is an example of the multi-level influence. Another result of the project is a guide for businesses – *I.B.Nestoruk, M. Pietraszewski – Przeciwdziałanie nieuczciwym praktykom rynkowym*, Wrocław 2011.

by substantive law. It determines the consumer's access to the justice and efficiency of protection system. The theoretical point of view consumer protection as specified by positive law was juxtaposed with opinions of practitioners. A proposed regulation is analyzed by means of quantified indicators to access its impact on various areas, including not only the situations of consumers but either consequently economy. Economic tools should be also used in ex post analyses of the law<sup>15</sup>.

## 9 Conclusion

Respondents, boasting also earlier experiences connected with the implementation of other, external scientific undertakings, stressed such elements as thorough preparation: *"this project was much more "designed" that is better prepared and we knew what was going on"*, extensive and insightful: *"The project stands out with the scale and the scope of the subject matter. This element of a detailed approach makes this project special"*. It was stressed that *"the project differs from others as it assumes intensification of cooperation of people from various centres"*. It is also long-term which supports obtaining substantive results. Respondents stressed among others the importance of the cyclic meetings which took place over a large period of time: *"which allowed for becoming involved in the subject matter using conclusions of the first meeting at the next one and others which followed. The fact that it was spread over time was highly valuable. The concepts could sprout and develop"*. The synergy between particular tasks comprising the whole project was also stressed.

By attempting to sum up the evaluation report results it was noted that the assumed results of study meetings, conferences, internships and scientific scholarships were achieved on a very good level, yet as regards the Internet forum on a satisfactory level<sup>16</sup>. Participants in the discussed research indicated the inspiring effect of the project, in the scope which becomes a starting point for team work in legal studies: *"it was something which is missing so much (...) There are no real teams. The project is a starting point for team work. In general the conclusion is that everybody is working on something. Of course there*

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<sup>15</sup> R. Stefanicki (2010 and 2011)

<sup>16</sup> The conclusion of the Report even indicates "exceptional quality" of the project in question.

*are collective studies but these are often compilations of particular articles and not a real team (...)*” Respondents indicated also another objective justification for the team effort: *“nowadays phenomena are really complex and are beyond the power of a single person”*. Therefore, with regard to the above *“there must be a division of tasks and a common approach. Just like in other branches of science. It is not surprising that physicists work together and create research groups. However, in the legal environment it is different and sometimes there is a very individualized approach.”*

When trying to make an assessment on how the assumptions of the project were accomplished we need to be careful and detached. Where one is self-satisfied with the attained results the person stops pursuing. Realization of the project definitely constitutes a valuable experience which could not have been achieved without taking the risk and spending necessary effort. Anyway, the author’s concept of the project and its implementation was treated by the author of the undertaking as an authentic public mission. The continued success of the project will be reflected in the use the beneficiaries of the project will make of their experiences and outsiders who also by means of a few publications from the project came into contact with our idea of mastering the law and a comprehensive approach to law.

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**Robert Stefanicki**, legal adviser, is a professor at the University of Wrocław and the Head of the Investment Law postgraduate courses. He leads research and teaching activities in the field of civil and commercial law and is member of the American Bar Association and the Society of European Contract Law. He has authored several articles in legal journals and monographs. Address: Uniwersytet Wrocławski (WPAiE) Uniwersytecka 22/26, 50-145 Wrocław, Poland. Email: [roberet.stefanicki@prawo.uni.wroc.pl](mailto:roberet.stefanicki@prawo.uni.wroc.pl).