

# **The examination of unfair terms in consumer contracts in Cyprus before European Union's intervention – administrative sanctions – criminal sanctions and the way forward**

IOANNIS GIOKARIS

*Ph.D. Candidate, University of Newcastle, Attorney at Law*

The fundamental aim of this article is to critically examine the situation existed in the area of standard contract terms in consumer contracts in Cyprus before the intervention of the European Union's through the European Directives. Before the writer moves to the analysis of this important topic it is crucial to refer to the research method that the writer has selected in order to gather all the important information.

## **Research Method**

The researcher conducted interviews with civil servants, experienced lawyers, presidents and vice presidents of consumer organizations and directors of banking, insurance institutions, relevant business organizations and Ex-Directors of the electricity Authority of Cyprus and Cyprus Telecommunications Authority. The purpose of the interviews was to examine the level of consumer protection in Cyprus before and after European Union's intervention and to establish the improvements that the European Directives have offered to the Cypriot consumers and what further actions need to be taken in order to improve further the consumer protection. It should be noted that the in-

formation obtained by these interviews helped the researcher promulgate the third chapter and part of the fourth chapter of his PhD thesis. Furthermore it is crucial to mention that the method selected was the most appropriate one since The Cypriot Competition and Consumer Protection Service of the Ministry of Energy, Commerce, Industry and Tourism did not hold any records concerning the examined period (1960-1991). For this reason the Director of Competition and Consumer Protection Service Mr. Charalambos Rousos promulgated an official document that certified that the aforementioned Ministry does not hold any records and that the best way for obtaining this important information was to conduct personal interviews with individuals that were civil servants and were working at the Service during the period under investigation. Additionally, the researcher obtained Ethical Approval by the Dean and the Ethical committee of Newcastle University in order to conduct these interviews. Finally the interviewees have been given all the necessary information through the information sheet and they have signed the consent form, which explicitly states that the researcher can use the data of the interviews both for his PhD thesis and for any other publications.

### **Acknowledgements**

This contribution is dedicated to Professor Nestor Courakis. I feel honored to participate in the honorary volume of such brilliant and wonderful professor, an academic of global reach, a luminary. I will always cherish his dynamic lectures at the University of Athens, and his kind and humane approach to every student. Nestor Courakis is a magnificent professor and, perhaps more importantly, a magnificent person.

I would further like to express my appreciation and thanks to all the interviewees that took part in this research. In particular I would like to give special thanks to the President of the consumer Organization 'Cyprus Consumer's Union and Quality of Life,' Dr Loucas Aristodemou that helped me considerably with my research through his valuable

comments and suggestions. Additionally I would especially like to thank the Ex-Directors of the Ministry of Commerce and Industry Dr Phroso Hatziluca and Dr. Georgios Mytides for their brilliant comments and suggestions and for providing additional data from their personal archive.

I would also like to express my gratitude and special thanks to my supervisor Professor Ian Dawson and to Professor Nikolaos Theodorakis for reviewing earlier drafts of this article and for their important comments.

Moreover I am extremely indebted to Mrs Yiota Loizou for bringing me into contact with experienced Cypriot lawyers that they were specialized in the area of unfair terms in consumer contracts and with experienced Directors of Cypriot banking institutions.

A special thanks to my mother, Andri Tsangkaridou for all the sacrifices that she has made on my behalf and for encouraging me throughout my studies. Without her valuable help and support both this article and the overall research in Cyprus would not have been concluded.

## **Introduction**

The purpose of this article is to analyze the topic of the unfair terms that have been used by the Cypriot businesses in the contracts concluded with the Cypriot consumers during the period 1960-1991, that is the period before the European Union generates, through the promulgation of specific Directives, important changes to specific consumer topics such as the topic of the unfair contract terms in consumer contracts. More specifically the first section of this article will consider the various attempts that the Cypriot government has made in the realm of consumer topics. The second section will provide an introduction to the topic of the unfair terms in consumer contracts in Cyprus and will explain its importance. In the third section of this article various unfair contract terms that existed in the contracts concluded between the Cypriot consumers and the various insurance, banking, institutions,

businesses, the Electricity Authority of Cyprus (EAC) and the Cyprus Telecommunications Authority (CYTA) will be presented and be subjected to a critical analysis. In the subsequent sections other fundamental problems such as the non-existence of an official Authority to deal with the standard contract terms in consumer contracts, the various forms of unintelligibility and the urgent need for the establishment of a black and grey list of standard contract terms will be considered and analyzed in order to have a more complete picture about the level of protection that had been offered to the Cypriot consumers by the Cypriot legislator. In the penultimate section of this article the writer will discuss the administrative and criminal sanctions that should be applied to the area of standard contract terms that were unfair in order to combat and eliminate them from the contracts concluded between the Cypriot businesses and the Cypriot consumers. It is important to mention at this point that the suggestions that will be made for the betterment of the protection offered to the Cypriot consumers in relation to the area of unfair contract terms in consumer contracts can be taken into consideration not only by the Cypriot legislator but also from other national legislators and certainly by the European legislator. Especially at this moment that the European Union envisage to revise the European directives that deal with various consumer topics such as the contracts concluded away from business premises, the distance selling contracts and the topic of unfair terms in consumer contracts the suggestions that are being expressed on this article will be a valuable contribution to the improvement of the protection offered to the European consumers.

#### ***A. Brief Assessment of the Protection Offered by the Cypriot Government to the Cypriot Consumers Between the Period 1960-1991***

In this introductory section there will be a brief assessment of the initiatives that had been taken by the Cypriot government to increase the protection offered to the Cypriot consumers. At the outset it should be noted that indeed during the period 1960-1991 the Cypriot legislator

had enacted certain pieces of legislation that manage to deal with topics that had generated specific problems to the Cypriot consumers. On the other side it is obvious that certain areas that had to be covered by specific legislative acts such as the area of the unfair terms in consumer contracts and contracts concluded away from business premises had not been regulated by the Cypriot government. The ex directors of the Ministry of Commerce and Industry Dr Froso Hatjiluca and Georgios Mytides admitted that the Cypriot government partially responded to specific problems that have been generated to the Cypriot consumers by enacting specific legislative acts.<sup>1</sup> One of these acts that had been implemented by the Cypriot government to strengthen consumers' protection was the law 94/1979 in relation to the hygiene of the meat.<sup>2</sup> The purpose of the aforementioned law was to establish some rules in relation to the procedures that needed to be followed for the killing of animals for food. As the directors of the Ministry of Commerce and Industry had pointed out this specific legislative act had to be promulgated because there were many incidents of food poisoning because the people who butchered the animals did not abide to the prescribed food hygiene standards.<sup>3</sup> More specifically the aforementioned law obliged the people who slaughtered animals to proceed to these actions only to a place that had been specifically designed for such actions such as a slaughterhouse<sup>4</sup> and additionally the Cypriot butchers

---

<sup>1</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry.

<sup>2</sup> Law 94/79 “in relation to the hygiene of meat”, number 1571 (14.12.79) *Official Journal of the Cypriot Republic*, 1211-1215.

<sup>3</sup> Interviewee number (1) – Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) – Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) – Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) – Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) – Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>4</sup> See article 3 (1) of the Law 94/79 “in relation to the hygiene of meat”, number

could proceed to the butchery of animals only after the veterinarian that had been appointed by the Cypriot government had made the official inspection of the meat.<sup>5</sup> Another important piece of legislation that was enacted by the Cypriot government was the law 23/1986 that had dealt with the mineral oils (readjustment of the retail selling price).<sup>6</sup> The purpose of the aforementioned law was to readjust the retail selling price of the oil, the liquefied petroleum gas (LPG) and the light and heavy fuel oils that were used by the Cypriot consumers because the prices that had been established in the previous years by the oil companies were excessive and brought the Cypriot consumers to a disadvantaged position.<sup>7</sup> According to the Ex-Directors of the Ministry of Commerce and Industry many complaints have been submitted by the Cypriot consumers during the period 1982-1985 in relation to the selling price of the oil.<sup>8</sup> More specifically after an important investigation that had been made by civil servants of the Ministry of Commerce and Industry it had been found that the oil companies that operated in Cyprus had increased significantly the prices offered to the Cypriot consumers and additionally some oil companies that operated in certain cities had established higher prices than other companies that op-

---

1571 (14.12.79) *Official Journal of the Cypriot Republic*, 1211-1215.

<sup>5</sup> See article 3 (3) to (8) of the Law 94/79 "in relation to the hygiene of meat", number 1571 (14.12.79) *Official Journal of the Cypriot Republic*, 1211-1215.

<sup>6</sup> Law 23/86 "in relation to the mineral oils (readjustment of the retail selling price)", number 2123 (14.03.86) *Official Journal of the Cypriot Republic*, 731-732.

<sup>7</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry.

<sup>8</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

erated in different cities.<sup>9</sup> This practice was extremely unfair for the majority of the consumers because the consumers that used to live in the cities with the higher prices had to spend a significant amount of their monthly salary to cover their oil needs. In other words the oil companies in Cyprus had exploited the Cypriot consumers by establishing high retail oil prices.

The aforementioned examples clearly demonstrate that the Cypriot legislator had recognized some areas such as the hygiene of the meat and the prices of the oil, that brought to a disadvantaged position the Cypriot consumers and tried through the promulgation of specific pieces of legislation to rectify the problems. On the other side there were topics such as the use of standard contract terms that were unfair to the contracts concluded with the Cypriot consumers as well as the contracts concluded away from business premises that generated various problems to the Cypriot consumers but the government failed to proceed to the necessary actions to deal with these topics. One of the reasons that the Government had not proceeded to the coherent treatment of these consumer topics was that there were some important political issues that had arisen during the period under investigation. One of these political issues was the Turkish invasion in 1974 in the northern part of Cyprus that resulted in the occupation of 38 per cent of the island by the Turks.<sup>10</sup> Moreover another consequence was that 160.000

---

<sup>9</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>10</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

thousand Greek Cypriots that were living in the occupied regions had to move to southern part that was still under the control of the Greek Cypriot government.<sup>11</sup> Consequently the Cypriot government had to provide shelter, food, medical and psychological help to the refugees something that demanded a lot of financial and human resources in order to accommodate all these people. Additionally another interrelated problem that had been pointed out by the Presidents of consumer organizations was that the pressure from the consumer organizations had been minimal.<sup>12</sup> Some of the reasons for this was that there was only one consumer organization in Cyprus during the period 1960-1991 and this organization had not the sufficient number of members or the appropriate economic resources in order to put pressure on the government to proceed to the necessary actions for the betterment of consumer protection.<sup>13</sup> Additionally the Cypriot government envisaged to develop the Cypriot economy and for this reason it did not want to enact complex and detailed pieces of legislation that would make the various businesses that wanted to invest on Cyprus reluctant to proceed to such actions.<sup>14</sup> Lastly it is worth mentioning at this point

---

<sup>11</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>12</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>13</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>14</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director

that the Cypriot citizens had not developed the so called consumer conscience that would have helped them to realize that only through the enactment of specific legislative acts by the Cypriot government their rights would have been better protected.<sup>15</sup>

### **The Need for a Coherent Protection from the Use of Standard and Non-standard Contract Terms**

In the previous section it has been demonstrated that the Cypriot legislator should have promulgated a specific legislative act that would have dealt with the topic of the unfair contract terms. The purpose of this section is to provide more details about the topic of the unfair terms in consumer contracts and discuss the reasons that a specific legislative act should have been promulgated by the Cypriot legislator in order to provide a coherent protection to the Cypriot consumers. From the interviews that have been conducted in Cyprus there was a consensus that the new act should establish a specific form of control to all the standard contract terms that are used by the businesses to the contracts concluded with the consumers. The standard contract terms are the contractual terms that one of the contracting parties had promulgated in advance with the aim to use these terms in an indefinite number of contractual agreements.<sup>16</sup> The public officials were of the opinion that

---

of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>15</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>16</sup> See Marianos Karasis, ‘The Judicial Control of the General Terms of Transactions’ (1992), 13-14; Aris Kazakos, ‘Civil Law, the Economy of the Market and the

during the seventies the number of the standard contract terms used by the various businesses and financial institutions were growing rapidly.<sup>17</sup> From 1980 to 1985 the public officials argued that there were a substantial amount of complaints made by the Cypriot consumers in relation to the use of standard contract terms by the businesses.<sup>18</sup> Finally from 1985 to 1990 the complaints made by the Cypriot consumers have been doubled and it was obvious that the majority of the Cypriot businesses and the banking and insurance institutions have promulgated standard contract terms that the majority of them had been unfair.<sup>19</sup> The major argument of the public officials for the urgent need of the promulgation of a specific legislative act dealing with the standard contract terms was that the extensive use of these pre formulated terms by the various businesses and institutions had created a cognitive defi-

---

Protection of the Consumers' (1987, 149-151; Nikolaos Deloukas, 'The General Terms of Transactions' (1952), 16.

<sup>17</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>18</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>19</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

cit to the Cypriot consumers since the consumers had to be subjected to very complex information that the vast majority of them could not understand.<sup>20</sup> Indeed as Georgios Mytides and Froso Hatziluca have pointed out many consumers complaints' were in relation to the non-comprehensibility of the various standard terms that had been incorporated in the Cypriot consumers' contracts by the big businesses.<sup>21</sup> Additionally another important argument that was supported by the Presidents of the Cypriot consumer organizations was that the Cypriot consumers could not escape from the imposition of the standard contract terms since the various businesses of each sector have made an agreement among themselves to impose standard terms in all the contractual agreements made with the Cypriot consumers.<sup>22</sup> In other words if a particular consumer wished to avoid the imposition of standard contract terms and turn to a business that could negotiate the terms of his contract, this could not be feasible since the businesses have the same policy to offer to their clients predetermined contract terms.<sup>23</sup> Finally some experienced Cypriot lawyers added to the above

---

<sup>20</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>21</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry.

<sup>22</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>23</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

arguments, that a specific legislative act that would protect the Cypriot consumers from standard contract terms should have been promulgated because the businesses and the financial institutions are financially superior by the consumers and at the same time the consumers do not have the necessary experience and knowledge in relation to the products and services that these businesses offer.<sup>24</sup>

### **Some Examples of Standard Contract Terms That Could Be Considered Unfair**

The purpose of this section is to examine certain sectors and to provide some examples of standard contract terms that could be considered unfair.

#### *1. Insurance companies and the use of standard contract terms that could be considered unfair*

The insurance sector was one of the sectors that used to impose several standard contract terms that could be considered unfair. During the interviews the state officials, the lawyers, the presidents of the consumer organizations identified various terms that seemed unreasonable and created various imbalances to the rights of the Cypriot consumers.<sup>25</sup> For instance a standard contract term that was used by the

---

<sup>24</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>25</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus

majority of the Cypriot insurance companies was the one that prescribed that, in the home insurance contracts, the insurance company had to pay a compensation to the Cypriot consumer that was equal when the house had been built.<sup>26</sup> In other words, if a Cypriot customer had made a home insurance contract with an insurance company in 1985 and his house had been built in 1971 then if the house had been destroyed by a fire, then the company had to pay, not the current value of the house, but the value that had the house when it had been built 14 years ago. Such a term could not be deemed fair and certainly had created an imbalance on the obligations of the two parties. The one party, which on our occasion is the Cypriot customer has to pay an amount that reflects the social and economic conditions of the 1985 year and on the other side the insurance company must pay the value that the house had 14 years ago.

Moreover the majority of the insurance companies had incorporated

---

Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>26</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Paniccos Malactos – Director of Insurance company; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

some standard contract terms that provide the right to these companies to renew automatically the insurance contract.<sup>27</sup> In particular the practice that was followed by the insurers was the following: They conclude an insurance contract with the customers for 1 year. After the expiry date the companies sent back the document to the customers and they informed them that they had made an automatic renewal in order to make the life easier to the Cypriot consumer.<sup>28</sup> Moreover the company provided a limited period of time to the customers to cancel the contracts.<sup>29</sup> If the customers had not explicitly stated to the companies that they had proceeded to the cancellation of the contract, this silence

---

<sup>27</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Paniccós Malactos – Director of Insurance company.

<sup>28</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Paniccós Malactos – Director of Insurance company.

<sup>29</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

and inactivity was perceived as an acceptance of the contractual agreement. As have been noted by the public officials and the consumer representatives such a term that provided the aforementioned right to the insurance company could be considered unfair. The reason was that the aforementioned right had violated the free will of the other party and created an enormous pressure to the Cypriot consumers to accept the new contract without providing sufficient time to them to proceed to a concrete investigation of the contract.<sup>30</sup> Moreover other commentators had rightly pointed out that if the customers did not exercise the right to cancel the contract within the period prescribed by the insurers then they could not do anything and they had to adhere to the content of the contractual agreement.<sup>31</sup>

Another instances that standard contract terms could be considered unfair were at the insurance contracts providing medical care. In these contracts although the fees that the customers used to pay were excessive the contract excepted a lot of services from the scope of the contract. For instance the directors of the Ministry of the Commerce and Industry mentioned complaints by the Cypriot consumers in relation to insurance contracts providing medical care.<sup>32</sup> On certain occasions

---

<sup>30</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>31</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>32</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Inter-

although the main body of the contract stated that the insurance company has the obligation to compensate the customer for every medical need that will occur to the Cypriot customer, in the footnotes there were imposed certain exceptions. The presidents of the consumer organizations mentioned some examples that demonstrate these exceptions. Some consumers when they had visited the dentist and then asked the insurance company to cover the expenses, they had been informed by the company's legal representatives that the aforementioned medical service is not covered by the insurance contract.<sup>33</sup> In fact when the customer insisted on this point saying that the main body of the signed contract prescribed that the company must cover all the medical needs of the client, the legal representatives pointed out to the exceptions that were in the footnotes.<sup>34</sup> Within the exception scope were also the dental services provided to the consumers. Another important exception that fueled hundreds of complaints from women was the issue of the gynecological examinations. Once again the women who had concluded a medical care insurance contract with the insurance companies were convinced that the gynecological examinations were included in these contracts. When these women had visited gynecologists and made all the necessary examinations they informed the gynecologist to conduct the insurance company in order to obtain the money.<sup>35</sup> Once again the lawyers of the companies informed their cus-

---

viewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry.

<sup>33</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>34</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>35</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of

tomers that the gynecological examinations were not included to the contract and pointed out to the footnotes where these exceptions had been made.<sup>36</sup> For the aforementioned analysis it is obvious that the insurance companies had limited the rights of the consumers considerably and on the other side the consumers had pay ed large sums of money because they had the impression that the contract had covered all the medical expenses. Moreover the fact that the main body of the contract stated that the insurance company has the obligation to cover

---

Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Panicos Malactos – Director of Insurance company; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>36</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Panicos Malactos – Director of Insurance company; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

all the medical expenses of the client and then in the footnotes with small letters and technical language it was stated that certain medical activities are excluded, could be considered a misleading practice. The way of drafting will be considered in the next section of this article.

Moreover on many occasions the insurance companies granted the right to themselves to interpret some provisions of the contract without consulting the consumer or the consumer's legal representatives.<sup>37</sup> This particular practice was followed by the vast majority of the insurance companies in the health insurance contracts. For instance in the health insurance contracts there were provisions that prescribed that in the case of inability of the clients to perform their working tasks because of an illness then the company was obliged to compensate the insurance customer.<sup>38</sup> When on certain occasions the customers who had working

---

<sup>37</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Paniccos Malactos – Director of Insurance company; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>38</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Paniccos Malactos – Director of Insurance company.

accidents and could not continue to offer their services until they had been completely cured, asked the insurance company to cover their medical expenses, the insurance companies in the majority of the cases refused.<sup>39</sup> The reason stated was that the inability to work had to be complete and not partial. The doctors that were appointed by the insurance company to establish whether the client had full inability to work pleaded that because the customers could walk this fact alone proved that these individuals were capable of continuing their works.<sup>40</sup> The aforementioned facts clearly demonstrated that a specific legislative act that would cover the topic of the unfair contract terms was essential in order to deal with the aforementioned issues. It was also the opinion of the interviewees that there should be a list with certain terms that would be considered a priori unfair. In particular terms like

---

<sup>39</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Paniccos Malactos – Director of Insurance company.

<sup>40</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Paniccos Malactos – Director of Insurance company; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

the above-mentioned ones that restrict to a large extent the rights of the consumers and at the same time expand considerably the insurance companies' rights should be deemed a priori unfair. Moreover terms like the ones analyzed above that granted to the insurance companies the sole right to interpret provisions of the contractual agreement concluded with the clients must also be considered a priori unfair.

*2. Standard contract terms that had been used by the banking institutions in Cyprus and could be considered unfair*

The banking sector was one of the sectors that had imposed several standard contract terms that on several occasions brought to an extremely disadvantaged position the Cypriot consumers. The ex directors of the Ministry of Commerce and Industry had confirmed that many complaints made to the department were in relation to the standard contract terms of the aforementioned institutions.<sup>41</sup> Additionally some experienced practicing lawyers that had personally reviewed hundred of contractual agreements that had been established between different banking institutions and the Cypriot consumers argued that most of these pre-formulated contract terms limited considerably the rights of the Cypriot consumers and on the other side increased substantially the rights of the banks.<sup>42</sup> Many standard contract terms that were applied to the mortgage agreements between the banks and the Cypriot consumers had several standard contract terms that could be

---

<sup>41</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>42</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

considered unfair. One disadvantageous standard contract term that had been imposed to the Cypriot customers was the one that prescribed that if the customer had made an early repayment of the loan he had to pay a considerable amount of money as a compensation.<sup>43</sup> According to the Ex-Directors of the Ministry of Commerce and Industry such a standard contract term was unfair because the banks had not demonstrated how they had suffered a damage by the early repayment of the loan.<sup>44</sup> Furthermore the Presidents of the consumer organizations argued that such an early repayment was beneficial for the Cypriot banking institutions because they had the opportunity to invest the returned money to the market or to place them to other services offered to the Cypriot consumers such as the granting of personal or consumer loans or the purchase of other banking services by the consumers through installments.<sup>45</sup> Another standard contract term that was used extensively by the majority of the banking institutions in Cyprus was the one that prescribed that the banking institution had the right to terminate the mortgage agreement when the customer had violated any term of the contract and additionally that all the terms of the con-

---

<sup>43</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry.

<sup>44</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>45</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

tract are substantial.<sup>46</sup> This standard contract term was heavily criticized by the various commentators because in a contractual agreement some of the terms are fundamental and can have as a consequence the termination of the contract and others are immaterial and cannot have as an effect the termination of the contract. More specifically let's suppose that A has concluded a loan contract with a banking institution. If A fails to pay the first installment of the loan and informs the bank that he is not going to pay any of the remaining installments then this certainly constitutes a substantial violation of the loan agreement and consequently the bank can proceed to the termination of the contract and ask the customer to pay all the installments of the loan and some compensation for the violation. On the other side if the aforementioned person has pay ed four installments of the loan and from the fifth installment fails to pay one fifth of the money then this case does not constitute a substantial violation of the loan agreement. In other words the loan agreement made between the bank and the customer had to provide a specific and a legitimate reason under which the bank can terminate the contractual agreement and not to allow the bank to terminate for whatever reason the contract with the customer. According to the representatives of the consumers such a standard contract term demonstrated with the most emphatic way how the banking institutions used their superior bargaining position to impose unfair contract

---

<sup>46</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (11) Michael Kyprianou – Director of Banking institution; Interviewee number (12) Savvas Stouppas – Director of Banking institution and Deputy Mayor of Limassol; Interviewee number (13) Afxentis Afxentiou – Director of Banking institution.

terms to the Cypriot consumers.<sup>47</sup> Additionally two practicing lawyers that had a great experience with standard terms imposed by the various businesses argued that the aforementioned term violated the relationship of trust that was established between the bank and its customers since it created an excessive financial burden to the Cypriot consumers who had to pay immediately the whole amount of the loan when they had violated any term of the loan agreement.<sup>48</sup>

### *3. Unfair standard contract terms in the telecommunications contracts*

After the independence of Cyprus in 1960 the Cyprus Telecommunication Authority (CYTA) was the sole company that provided telecommunication services to the Cypriot consumers. According to the interviewees the aforementioned company because of its monopolistic position in the market imposed various standard terms in the contracts concluded with the Cypriot consumers that could be considered unfair.<sup>49</sup> According to the Ex-Directors of the Ministry of Commerce and Industry there was a sufficient amount of complaints by the Cypriot

---

<sup>47</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>48</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer.

<sup>49</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

consumers in relation to certain standard terms that the aforementioned company had used in the contracts concluded with its Cypriot customers.<sup>50</sup> Some of these complaints were in relation to a standard contract term that prescribed that if the customer took the decision to end the one year contract that he had concluded with CYTA before the expiry of the one year period then this customer had to pay the fixed charges of the whole year.<sup>51</sup> A fixed charge was a standard charge that the Cypriot consumers had to pay to the CYTA regardless of the number of phone calls that they had made. Such a term according to the commentators had restricted to a large extent the freedom of the consumer since the Cypriot customers could not avoid the contract in the case that the economic conditions or the initial circumstances that made the customers concluded the contract had significantly changed.<sup>52</sup> More specifically the presidents of consumer organizations

---

<sup>50</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>51</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (14) Nicos Mozoras – Ex-Director of the Cyprus Telecommunications Authority; Interviewee number (15) Michalis Elpidorou – Ex-employee of the Cyprus Telecommunications Authority.

<sup>52</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Inter-

Dr Loucas Marcou and Loucas Aristodemou had argued that there were many examples of Cypriot consumers that after they had concluded the one year contract with the CYTA they decided after two months to end the contract and that they were obliged by the company's representatives to pay the fixed charges of the one year period.<sup>53</sup> In other words many Cypriot consumers ended up paying four or five times more than the actual amount they had to pay for using the service.<sup>54</sup> The most sensible solution would have been for the Cypriot consumers to pay the fixed and the variable costs because they had used the telecommunication services for two months and then to pay a small fine because they had ended the contract before the expiry date.

Another standard contract term that was widely used by the CYTA in the contracts concluded with the Cypriot consumers was a term that dictated that the customer did not have the right to terminate the contract for cause such as the excessive rise of the fixed and variable charges by CYTA.<sup>55</sup> In other words this term had deprived the Cypriot

---

viewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>53</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>54</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>55</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-

customer by a fundamental right such as the one that prescribed that the customer can terminate the contract for a legitimate reason. Such a legitimate reason is of course when the telecommunications provider proceeds to an excessive increase of the various charges. On the other side CYTA had the right to terminate the contract when the customer had not payed in time the monthly bill. Here as has been rightly noted by the consumers' representatives the aforementioned standard contract term was extremely unfair for the Cypriot consumers since the company was allowed to terminate the contract for a legitimate reason but at the same time the company's representatives had deprived the consumers from the aforementioned right.<sup>56</sup> In other words the Cypriot customers' rights had been narrowed to a large extent although they were the weaker party to the contract and had to face a company that acquired a monopolistic position in the Cypriot market.

4. *Standard contract terms that could be considered unfair in the contracts concluded between the Cypriot consumers and the Electricity Authority of Cyprus (EAC)*

The electricity Authority of Cyprus (EAC) was established in 1952 while Cyprus had been under the control of the British Empire. After Cyprus independence the EAC was the sole provider of electricity to the Cypriot consumers and as the CYTA, acquired a monopolistic position in the Cypriot market. According to the Ex-Directors of EAC the

---

tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry; Interviewee number (14) Nicos Mozoras – Ex-Director of the Cyprus Telecommunications Authority; Interviewee number (15) Michalis Elpidorou – Ex-employee of the Cyprus Telecommunications Authority.

<sup>56</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

aforementioned company never obtained any grants from the Cypriot government although it was a public corporate body.<sup>57</sup> The ex directors of the Ministry of Commerce and Industry argued that many complaints that have been made by the Cypriot customers during the 70s and 80s concerned some standard contract terms that have been imposed to the Cypriot consumers by the EAC.<sup>58</sup> Moreover the presidents of the consumer organizations in Cyprus had received many complaints in relation to certain standard contract terms that have been imposed to the Cypriot customers and that had generated a huge imbalance between the rights and obligations of these people.<sup>59</sup> One standard contract term that had been used extensively by the aforementioned company with the contracts concluded with the Cypriot consumers was the one that prescribed that the EAC had the right to automatically renew the one year contract after the one year period had expired.<sup>60</sup> Such a term according to the Directors of the EAC was

---

<sup>57</sup> Interviewee number (16) Spyros Savvides – Ex-Director of Electricity Authority of Cyprus; Interviewee number (17) Demetrakis Malialis – Ex-Director of the Electricity Authority of Cyprus.

<sup>58</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>59</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>60</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou

not unfair since the whole procedure had been followed in order to facilitate the Cypriot consumers.<sup>61</sup> Additionally the Directors pointed out to the fact that the Cypriot consumers that envisaged to have electricity could not conclude a contract with another company since the EAC had a monopolistic position in the Cypriot market.<sup>62</sup> On the other side many commentators argued that such a term had been unfair because the Cypriot consumers should be granted the opportunity to decide whether they want to continue to receive electricity by the aforementioned company.<sup>63</sup> Additionally another group of commentators added to the above that the new contract offered to the Cypriot consumers had terms that prescribed that the Cypriot consumer had to pay higher fixed and variable charges than the ones that he used to pay under the former contractual agreement.<sup>64</sup> In other words the EAC had pro-

---

– President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (16) Spyros Savvides – Ex-Director of Electricity Authority of Cyprus; Interviewee number (17) Demetrakis Malialis – Ex-Director of the Electricity Authority of Cyprus.

<sup>61</sup> Interviewee number (16) Spyros Savvides – Ex-Director of Electricity Authority of Cyprus; Interviewee number (17) Demetrakis Malialis – Ex-Director of the Electricity Authority of Cyprus.

<sup>62</sup> Interviewee number (16) Spyros Savvides – Ex-Director of Electricity Authority of Cyprus; Interviewee number (17) Demetrakis Malialis – Ex-Director of the Electricity Authority of Cyprus.

<sup>63</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>64</sup> Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou –

ceeded to fundamental changes in relation to the prices that the consumers had to pay and consequently a right should have been given to the consumers to decide whether they wanted to conclude the new contractual agreement or to proceed to the termination of the contract.

Moreover another standard contract term that had been used by the EAC was the one that dictated that the EAC's liability is limited when its employees had caused some damages to the houses of the consumers after they had not repaired properly the electric wires that were located inside the houses.<sup>65</sup> The aforementioned term had produced huge imbalances between the rights and obligations of the two parties because a similar term that would have prescribed a limited liability for the Cypriot consumer had not been established. Moreover another standard contract term that is closely connected with the previous term was the one that prescribed that the Cypriot consumer had an extremely limited period to bring an action against the EAC to the court from the day that he had been aware of the damage.<sup>66</sup> After the expiry

---

Ex-President of the consumer organization 'Cyprus Consumers Association'.

<sup>65</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>66</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number

of the limitation period the consumer had lost the right to file for a lawsuit and could not proceed to any actions to recover his financial losses from the damages that had been caused by the employees of the EAC. Once again such a clause clearly limited the freedom of the Cypriot consumer to file a lawsuit against the EAC and caused an imbalance in his rights and obligations since the EAC had not been subjected to a similar clause.<sup>67</sup>

### **The Necessity of the Establishment of an Official Body for the Evaluation of the Cypriot Consumers' Complaints**

One of the biggest problems that the consumers face in relation to the topic of the unfair contract terms was that there was not an official body to review the various complaints' of the Cypriot consumers. The Ex-Director of the Ministry of Commerce Frosso Hatziluca argued that the fact that the Cypriot legislator had not created an official body to review the complaints of the Cypriot consumers did not generate a problem only to the topic of the unfair contract terms but to other important consumer topics because official authorities had to be established in order to review the complaints of the consumers and proceed

---

(16) Spyros Savvides – Ex-Director of Electricity Authority of Cyprus; Interviewee number (17) Demetrakis Malialis – Ex-Director of the Electricity Authority of Cyprus.

<sup>67</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer.

to the necessary actions in order to rectify these problems.<sup>68</sup> Additionally two other Ex-Directors of the Ministry of Commerce and Industry Georgios Mytides and Yiannis Kontos added to the above that an official body helping the consumers with the topic of the unfair contract terms would boost consumer's confidence since the Cypriot consumers were reluctant to engage themselves to court proceedings.<sup>69</sup> The public officials were of the opinion that a public body could represent better the interests of the Cypriot consumers.<sup>70</sup> The Presidents of consumer organizations insisted on the fact that a private organization such as an Independent Authority or Consumer Ombudsman Service could represent better the interests of the consumers.<sup>71</sup> Here one can notice a disagreement among the various commentators as to the best way of representing the interests of the consumers. Some commentators were in favor of the creation of a public body that would represent the interest of consumers in relation to the topic of the unfair contract terms and other commentators were of the opinion of a private organization. The public officials were of the opinion that a public body could represent better the interests of the consumers because it will have more authority when it interacts with various businesses and financial institu-

---

<sup>68</sup> Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry.

<sup>69</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry.

<sup>70</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry.

<sup>71</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

tions.<sup>72</sup> For instance as has been suggested by some commentators a public official could take some actions against the businesses which use unfair contract terms that could not have been taken by the representatives of consumer organizations.<sup>73</sup> Some examples that demonstrate the aforementioned argument are the imposition of some fines to the companies that refused to cooperate with the public body<sup>74</sup> or the issuance of restraining orders.<sup>75</sup> Additionally it was suggested that a public body could represent the totality of the Cypriot consumers since the consumer organizations did not have a large amount of members and thus cannot be said that they represent all the consumers in Cyprus.<sup>76</sup> On the other side of the spectrum it was pointed out by the

---

<sup>72</sup> See also Hondius Ewoud, 'Unfair contract terms: new control systems' (1978) 26 *The American Journal of Comparative Law*, 525, 537-538.

<sup>73</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>74</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer.

<sup>75</sup> See also Hondius Ewoud, 'Unfair contract terms: new control systems' (1978) 26 *The American Journal of Comparative Law*, 525, 538.

<sup>76</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry; Interviewee number (18) Zacharias Koulias – Practic-

Presidents of consumer organizations that the a private organization could represent better the consumers' interests because these organizations would not have been subjected to governmental control.<sup>77</sup> Moreover the representatives of consumer organizations argued that the Cypriot government was more inclined to satisfy the interests of the major businesses and financial institutions<sup>78</sup> and this can be proved by the fact that a specific legislative act that would govern the topic of the unfair contract terms had not been enacted although there were suggestions both by the consumer organizations<sup>79</sup> and some public officials<sup>80</sup> that such an act was more than necessary in order to combat the continuous use of the unfair terms in consumer contracts.

---

ing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer.

<sup>77</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>78</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>79</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>80</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry.

### **Many Problems in Relation to the Intelligibility of the Standard Contract Terms in the Various Consumer Contracts in Cyprus**

One serious problem that derived from the various interviews conducted in Cyprus in relation to the topic of the standard contract terms in consumer contracts was that the vast majority of the Cypriot businesses and the various financial institutions incorporated terms that were unintelligible. The purpose of this section is to analyze the main forms of unintelligibility that could be found in the consumer contracts just before European Union's intervention in the topic of the unfair contract terms. It should be noted at this point that a complete treatment of such an important topic is beyond the scope of this article. The main focus of this section is to demonstrate that indeed in the period between 1960 and 1991 the Cypriot consumers had serious problems in relation to the intelligibility of the various terms and to mention some examples that support the aforementioned argument.

The various public officials argued that indeed there were many complaints received by the Cypriot consumers that were closely connected with the unintelligibility of the standard contract terms in consumer contracts.<sup>81</sup> More specifically Froso Hatjilucas and George Mytides argued that most of the complaints expressed by the Cypriot consumers had to do with one way or another with issues of intelligibility.<sup>82</sup> To the same lines of thought the Presidents of the Cypriot consumer organizations Loucas Aristodemou and Petros Marcou argued

---

<sup>81</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>82</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry.

that most of the standard contract terms incorporated in the consumer contracts by the various businesses were incomprehensible and could not be understood by the consumers. The aforementioned commentators reached this conclusion because they had personally reviewed hundreds of contractual agreements concluded between Cypriot businesses and the Cypriot consumers.<sup>83</sup> Moreover they had obtained numerous information concerning the intelligibility of the standard contract terms by the various complaints made by the Cypriot consumers.<sup>84</sup>

One specific form of unintelligibility that was recognized by the totality of the commentators was that many banking, insurance and financial institutions incorporated standard contract terms that were constructed in a very technical and legal language.<sup>85</sup> More specifically

---

<sup>83</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>84</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>85</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Elena Maliali – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Panicos Malactos – Director of Insur-

as has been noted by the Directors of banking institutions on many instances Banks incorporated a standard contract term in the contractual agreements with the Cypriot customers that prescribed that the Bank excluded its liability if their employees had proceeded to some actions that damage the customers' rights due to slight negligence and assumed liability in the case of gross negligence or willful misconduct.<sup>86</sup> It is obvious that this kind of legal terms such as slight and gross negligence could be understood by the majority of the Cypriot consumers. The Presidents of the consumer organizations argued that especially between the years 1985-1990 numerous Cypriot consumers send complaints to the consumer organizations concerning legal terms used by the various businesses in the consumer contracts that were difficult to be understood by a layperson.<sup>87</sup> Additionally some lawyers that have reviewed consumer banking contracts verified that many of these contracts contained legal terms such as the ones mentioned above that could be understood only by lawyers or highly educated individuals but were completely incomprehensible for the vast majority of the Cypriot consumers.<sup>88</sup>

---

ance company; Interviewee number (11) Michael Kyprianou – Director of Banking institution; Interviewee number (12) Savvas Stouppas – Director of Banking institution and Deputy Mayor of Limassol; Interviewee number (13) Afxentis Afxentiou – Director of Banking institution; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer.

<sup>86</sup> Interviewee number (11) Michael Kyprianou – Director of Banking institution; Interviewee number (12) Savvas Stouppas – Director of Banking institution and Deputy Mayor of Limassol; Interviewee number (13) Afxentis Afxentiou – Director of Banking institution.

<sup>87</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>88</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

Now turning to the insurance contracts the public officials verified that many contracts offered by the Cypriot insurance companies to the Cypriot consumers drafted in a technical, legalistic language that could not be understood by the majority of the public.<sup>89</sup> For example two directors of insurance companies in Cyprus have indicated that a common term that was used was the so called force majeure clause. More specifically the wording of the insurance contracts that had used this clause took the following form: 'The insurance company has no obligation to perform its obligations derived from the contract in the cases of force majeure.'<sup>90</sup> The vast majority of the insurance companies had not provided an explanation of this technical term and this has as a consequence the majority of the consumers not to understand the exact circumstances that an insurance company is discharged by its obligations.<sup>91</sup> The meaning of the aforementioned term is that a party of a contractual agreement is released from its responsibility when an event is occurred that is beyond its control. For example if a person concludes a home insurance contract with an insurance company and the house of this person is destroyed by a flood or an earthquake, that is an event that is beyond the insurance company's control, this company is discharged by its obligation to provide compensation for the destruction of the house due to the force majeure clause.

---

<sup>89</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry.

<sup>90</sup> Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Paniccos Malactos – Director of Insurance company.

<sup>91</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Eleni Valili – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

The second form of unintelligibility that has been recognized by the commentators was the fact that important information were not incorporated in the main body of the contractual agreement but was imported in the footnotes. The public officials certified that on many instances the complaints of the Cypriot consumers were in relation to the aforementioned problem.<sup>92</sup> More specifically two public officials argued that the main body of the contractual agreement was drafted in such way that did not state clearly that the consumer should also read the footnotes.<sup>93</sup> A notable example to understand the aforementioned situation is the following: A Cypriot customer had concluded a loan agreement with the bank. The customer had pay ed five installments of the loan but he failed to pay the sixth installment. The problem with the wording of the aforementioned contract was that in the main body of the contract it was said by the bank that if the customer failed to pay one of the installments the bank could impose a fine; but next to the word fine the drafters of this contractual agreement put an asterisk and in the footnotes they wrote that the bank had the right to terminate the loan agreement and to demand all the remaining installments and compensation for the breach of the contract.<sup>94</sup> In other words this im-

---

<sup>92</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>93</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry.

<sup>94</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

portant information that provides the bank a very important right instead of being incorporated in the main body of the contract it had been incorporated in the footnotes. Here it is worth mentioning that the Presidents of the consumer organizations contended that the wording contained in the footnotes were in small print and that many consumers failed to notice the important information situated in there.<sup>95</sup> Other commentators added to the above that especially the majority of the elderly people who often had vision problems because of their age never had read this important information contained in the footnotes because the letters were in small print.<sup>96</sup> Similarly in the insurance contracts many important information were incorporated in the footnotes. A notable example was in the case of life insurance contracts where in the main body of the contractual agreement the insurers stated that the premium paid by the insured covered all the illnesses and in the footnotes the drafters imposed several exceptions. This fact as has been stressed out by the Presidents of the consumer organizations had been a misleading practice from the insurance companies since many of the Cypriot consumers who concluded these kind of contracts had not paid attention to the footnotes.<sup>97</sup> Some Cypriot lawyers who had the opportunity to examine many of these life insurance contracts offered by the Cypriot insurance companies, argued that the wording of the contracts was formulated in such a way that did not help the consumers to understand that they had to look at the footnotes and that in the foot-

---

<sup>95</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>96</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>97</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

notes there were important information that should have been noticed by the insured people in order to understand the essence of the contract.<sup>98</sup> Similarly in the contractual agreements formulated with the Electricity Authority of Cyprus and the Cypriot Telecommunications Authority there were similar problems. More specifically two Ex-Directors of the Electricity Authority of Cyprus (EAC) verified that on many instances important information were incorporated in the footnotes.<sup>99</sup> In particular the contractual agreements concluded with the Cypriot consumers by the Electricity Authority of Cyprus had a standard contract term that prescribed that the customer had to pay certain amount of money every month for the electricity provided by the EAC. As the Directors pointed out next to this standard contract term that appeared in the main body of the contract signed by the customer there was an asterisk and in the footnotes there was another term which prescribed that the Electricity Authority of Cyprus has the absolute power to determine both the fixed charge and the variable charge without asking the customer.<sup>100</sup> In other words this important standard contract term that granted the right to the EAC to change at its will the money that the Cypriot consumer must pay had been incorporated in the footnotes in small print. Here it is worth mentioning that the consumers' representatives argued that such an important standard contract term should have been put in the main body of the contract because such information is vital for the customer in order to decide whether he is going to conclude the contract with the EAC.<sup>101</sup> Other critics sug-

---

<sup>98</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>99</sup> Interviewee number (16) Spyros Savvides – Ex-Director of Electricity Authority of Cyprus; Interviewee number (17) Demetrakis Malialis – Ex-Director of the Electricity Authority of Cyprus.

<sup>100</sup> Interviewee number (16) Spyros Savvides – Ex-Director of Electricity Authority of Cyprus; Interviewee number (17) Demetrakis Malialis – Ex-Director of the Electricity Authority of Cyprus.

<sup>101</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas

gested that even if this term or other standard contract terms that were used by the EAC, which could be said that were unfair, were incorporated to the main body of the contract and could be seen clearly by the customers would not change anything since the EAC had a monopolistic position in Cyprus and the Cypriot consumers were obliged to conclude the contract if they wanted to use electricity in their houses.<sup>102</sup> The public officials added to the above that many Cypriot consumers had complained to the department of Industry and Commerce about the frequent changes in prices that the EAC had proceeded especially in the 1970s and 1980s.<sup>103</sup>

Moreover another important limitation that has been emphasized by the various commentators was that in order for the consumers to understand the meaning of some standard contract terms they needed to read the code of practice and other documents that have been promulgated by the businesses.<sup>104</sup> In other words the body of the contractual agreement that had been signed by the consumer could not provide an answer for the interpretation of a term. For example if a consumer

---

Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Eleni Valili – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’.

<sup>102</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>103</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>104</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry.

opened a banking account with a banking institution there were some standard contract terms in relation to the manageable fees that the consumer had to pay for the various services that were offered to him by the employees of the bank. These contractual terms were constructed in such a way that did not specify exactly the amount of money that the customer must pay but instead they prescribed that the customer must look certain pages from the bank's code of practice or other leaflets and small books of the bank. This procedure was extremely lengthy and on many instances the consumers could not read all these documents in order to find out the ways that the banks use to determine the exact amount of the manageable fees that the customers must pay.<sup>105</sup> Additionally even if some consumers had the time to study carefully these documents many of the consumers could not fully understand them because they did not possess the appropriate education and legal expertise to understand the complicate way of determination of that fees.<sup>106</sup> Similarly in the insurance contracts the various insurance companies they had terms that prescribed that these institutions have the right to change the premium that the insured party must pay and this determination is described in full details to the codes of practice and other documents that had been given to the customer.<sup>107</sup> In

---

<sup>105</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>106</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>107</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Paniccos Malactos – Director of Insurance company.

other words the main body of the contractual agreement given to the insured by the insurance company did not clearly specify how the company would determine the amount of money that the insured must pay.

An additional problem of drafting in relation to the standard contract terms that were offered by the Cypriot businesses to the Cypriot consumers was that on many instances these terms were drafted in a very general abstract way.

Here it is worth mentioning a fifth problem in relation to the use of the standard contract terms from the Cypriot businesses. This problem is extraordinary and did not appear to the research that the writer has made when he examined the British and the Greek positions in relation to the use of the unfair terms in consumer contracts. Many Cypriot businesses after the independence of Cyprus in 1960 from the British Empire continued to conclude contractual agreements written in English with the Cypriot consumers. This practice was quite disturbing for the Cypriot consumers since the vast majority of the Cypriot citizens used the Greek language as their mother tongue and could not speak English fluently. Although many Cypriots were familiar with the spoken English because of the British occupation they could not understand the essence of these contractual agreements because they had been drafted in a very legalistic way by the businesses' representatives.<sup>108</sup> Other critics suggested that the businesses and the various banking and insurance institutions that made use of this practice envisaged to bring the Cypriot consumers in a disturbing position and to make them not understand certain standard contract terms that granted extensive rights to the aforementioned enterprises.<sup>109</sup> Zacharias

---

<sup>108</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry.

<sup>109</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer or-

Koulias and Costas Tsirides argued that many lawyers who had been employed by the big businesses to draft the contracts concluded with the Cypriot consumers purposefully had adopted the drafting of these contracts in English in order to avoid any complaints by the Cypriot consumers in relation to some standard contract terms.<sup>110</sup> It is submitted at this point that since the Cypriot consumers had some problems understand the Greek contractual agreements written in Greek, as has been shown above, that concluded with the Cypriot businesses, it is obvious that it would be much more difficult to understand contracts that were written in legal English.

### **The Promulgation of a List with Black and Grey List Standard Contract Terms in order to Strengthen the Position and Improve the Protection of the Cypriot Consumers**

One big issue of debate was whether the new legislative instrument needed to have a list of unfair contract terms. It has to be noted that the majority of the interviewees shared the opinion that the new legislative act dealing with the unfair contract terms should incorporate a list with standard contract terms that could be considered unfair. One of the reasons that supported the above mentioned opinion was that this list would have been a valuable help for the Cypriot judges to take the correct decisions when they dealt with unfair terms in consumer contracts.<sup>111</sup> Moreover according to some commentators, including the

---

ganzization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Elena Maliali – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>110</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>111</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and

Presidents of Cypriot consumer organizations, the Cypriot consumers would have substantial benefits from such list because they could use this list as a toolbox when they would conclude contractual agreements with the various businesses.<sup>112</sup> In other words the list could have been used as an indication from the Cypriot consumers in order to determine if their contractual agreements contained suspicious terms. Additionally the list could help the various businesses to create standard contract terms that would take into consideration the interests of the consumers and also to eliminate from their standard contracts provisions that are included in the list and have a high probability to be unfair.<sup>113</sup>

The area of debate among the interviewees was the form that this list should take. More specifically some of the interviewees were of the opinion that the list had to contain terms that were automatically unenforceable, the so called 'black list.'<sup>114</sup> In other words if a business or the banking and the insurance institutions had incorporated terms in the contracts concluded with the Cypriot consumers that were identical with the provisions of the list then these terms were declared auto-

---

Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>112</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Elena Maliali – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>113</sup> Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>114</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Elena Maliali – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

matically void and could not create any burden to the consumers. Other commentators argued that the list should include contract terms that could not be deemed automatically unenforceable but should be presumed unfair, the so called 'grey list'.<sup>115</sup> In other words if the various businesses and the financial institutions have incorporated standard contract terms in the contractual agreements concluded with the Cypriot consumers that match with the ones included in the list then there should be a presumption that these terms are unfair. The proponents of the creation of a black list of terms based their opinion on certain standard contract terms that they thought that they were extremely unfair for the consumers. For example some of the supporters of the black list of terms pointed out to the practice that was followed by the Cypriot insurance companies and the Electric Authority of Cyprus to renew automatically the contractual agreement that was of a fixed duration with the Cypriot customers without first consulting the consumer.<sup>116</sup> Here it should be noted that on certain occasions some insurance companies sent the new contract to the Cypriot customers but they had incorporated a standard contract term that prescribed that if the customer does not express his acceptance to the contract in a duration of three, five or seven days then his silence constituted acceptance of the new contractual agreement.<sup>117</sup> This policy and these standard

---

<sup>115</sup> Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>116</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (8) Elena Maliali – Vice President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>117</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-

contract terms that granted the aforementioned right to the businesses to automatically extend a contract of fixed duration without first provide a reasonable time for the Cypriot consumers to accept the contractual agreement were extremely detrimental for the Cypriot consumers and thus these kind of standard contract terms had to be declared automatically void by the Cypriot law.<sup>118</sup> Moreover the proponents of the creation of a black list of standard contract terms were of the opinion that contractual terms that prescribed that the Cypriot consumers must pay an excessive fine in the case that they failed to perform a duty derived by the contractual agreement must be automatically invalidated. For example the standard contract terms that were used extensively by the banking institutions and prescribed that if the cus-

---

Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Elena Maliali – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Panicos Malactos – Director of Insurance company.

<sup>118</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization ‘Cyprus Consumers Association’; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (8) Elena Maliali – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’; Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company; Interviewee number (10) Panicos Malactos – Director of Insurance company.

tomers failed to pay one of his installments he was obliged to pay an excessive amount of money as a compensation had to be considered as void per se. Moreover other similar terms that were used by the insurance companies and prescribed that if the customer decided to withdraw from the health or the home insurance contract, had to pay compensation fees that were above the average, would have to be included in the black list. Additionally the advocates of the establishment of a black list of standard contract terms were of the opinion that contractual terms that the Cypriot consumers did not have the opportunity to be familiar with before the formulation of the contractual agreement had to be included in the aforementioned list. More specifically the aforementioned analysis demonstrated that the Electricity Authority of Cyprus and the National Telecommunications Authority incorporated some standard contract terms in the agreements with the Cypriot consumers that prescribed that if there were some damages in the telephone lines and in the electric generators that were located in the houses of the customers then the above-mentioned authorities were obliged to send their employees to repair the problems. Additionally these standard contract terms prescribed that the determination of these costs would be made according to the rules contained in the codes of practice and other books that have been issued by these businesses. Here it should be noted that these documents had not been provided to the customers before the conclusion of the contract and thus, the Cypriot consumers did not have the opportunity to familiarize themselves with the content of these terms. It is submitted at this point that the advocates of the establishment of a black list of standard contract terms were right since the aforementioned examples demonstrate that some contractual terms violated to such extent the freedom of contract of the Cypriot consumers that should have been declared automatically void. On other occasions some other standard contractual terms should be included in the so called grey list since at these instances the court taking into consideration all the circumstances of the case will have to decide whether this term could be deemed or not unfair.

### **The Use of Administrative and Criminal Sanctions in the Topic of the Unfair Terms in Consumer Contracts for the Better Protection of the Cypriot Consumers**

The vast majority of the interviewees were of the opinion that the Cypriot government needed to enact a legislative act dealing with the unfair contract terms and that this act should establish an administrative authority that would have dealt with the Cypriot consumers' complaints in relation to the unfair contract terms and additionally that this act must include some administrative sanctions.<sup>119</sup> The proponents of the establishment of administrative sanctions for the elimination of the unfair terms from the contracts concluded between the businesses and the consumers argued that this solution is the most appropriate since the administrative authority can impose the administrative sanctions quicker than the civil and the criminal sanctions that would have been imposed by the Cypriot courts. This argument is correct since as many commentators argued the court proceedings in Cyprus were lengthy and consequently if someone wanted to take this route on some occasions he would have to wait a long period before the final decision of the court.<sup>120</sup> Additionally the standard of proof is lower than the one

---

<sup>119</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry.

<sup>120</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union

that is required in a criminal court.<sup>121</sup> More specifically the administrative authority had to show a standard of proof that is the one of balance of probabilities in order to impose administrative sanctions to the businesses that have violated the rules. This standard of proof is much lower than the burden of proof in the criminal court that is beyond any reasonable doubt.<sup>122</sup> In other words the Cypriot consumers would have more chances to succeed and punish the businesses that made extensive use of unfair contract terms if they had made the complaints to the Administrative authority since this Authority could act quicker. On the other side of the spectrum there were some voices of concern that expressed the opinion that on certain violations the criminal sanctions would have been more appropriate for the elimination of the continuous use of unfair contract terms. The proponents of this idea argued that on certain occasions such as the use of the so called 'black listed terms' from the Cypriot businesses or in the case where the Cypriot companies have used highly unintelligible terms the administrative penalties are extremely low and the economic benefits that are derived by the use of standard contract terms are greater and consequently the businesses prefer to violate the law and be subjected to the administra-

---

and Quality of Life'; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>121</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (18) Zacharias Koulias – Practicing lawyer; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>122</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leon-tios Perikleous – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry.

tive sanctions by the administrative authority.<sup>123</sup> In other words in such situations a group of commentators were of the opinion that only the criminal sanctions imposed by a court could make the businesses remove the unfair standard contract terms and comply with the unfair contract terms legislative act. Another important argument against administrative sanctions when businesses are making use of the black listed terms or highly unintelligible provisions is that these type of sanctions does not generate a social stigma to the businesses that is closely connected to a conviction that is made by a criminal court.<sup>124</sup> Indeed when a company make use of extremely unfair contract terms such as the so called black listed terms that we have mentioned in the previous sections, a small monetary fine imposed by the Administrative authority is not the most appropriate way of deterrence. On the contrary if the Cypriot businesses had the fear that the use of the so called black listed terms could lead to a criminal conviction then they would be more eager to remove these kind of terms from the contracts concluded with the Cypriot consumers because the damage to their public image would have been greater. In other words this group of commentators were of the opinion that the Cypriot legislator needed to use both administrative and criminal sanctions to combat the extensive use of unfair standard terms in the contracts concluded between the Cypriot businesses and the Cypriot consumers.

Moreover the advocates of the criminal sanctions were of the opinion that these criminal sanctions should take the form of monetary fines or adverse publish orders. In relation to the monetary fines the

---

<sup>123</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number 7 – Loucas Aristodemou – President of Consumer Organization; Interviewee number 8 – Petros Markou – President of Consumer Organization; Interviewee number 9 Eleni Valili – Vice President of Consumer Organization.

<sup>124</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry.

commentators were of the opinion that the legislative act should impose fines for 1000 to 5000 euros for the Cypriot businesses that make use of the so called black contract terms in the contracts concluded with the Cypriot consumers.<sup>125</sup> Moreover the commentators opined that the law should prescribe that if the company violates again the law for instance if the company uses again the same so called black term in the contracts with the consumers the fines should be doubled.<sup>126</sup> In other words if the companies proceeded to the same violations of the law and impose again the same terms that have been deemed void by previous court orders then the law should increase the criminal fines that these companies need to pay.

Additionally the law should provide the opportunity to the Cypriot courts to impose adverse publicity orders to the Cypriot businesses. This penalty option would be a very valuable weapon in the hands of the Cypriot judges since the Cypriot businesses which have been subjected to that measure would have been obliged to publicize the courts' conviction at their own expense.<sup>127</sup> According to the same commenta-

---

<sup>125</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number 7 – Loucas Aristodemou – President of Consumer Organization; Interviewee number 8 – Petros Markou – President of Consumer Organization; Interviewee number 9 Eleni Valili – Vice President of Consumer Organization.

<sup>126</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number 7 – Loucas Aristodemou – President of Consumer Organization; Interviewee number 8 – Petros Markou – President of Consumer Organization; Interviewee number 9 – Eleni Valili – Vice President of Consumer Organization.

<sup>127</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides

tors the imposition of such a penalty would deter the businesses from adopting such kind of unfair terms since their prestige would have been severely damaged by the publication of the convicting orders.<sup>128</sup> Using the words of the president of consumer Organization dr Loucas Aristodemou 'If the Cypriot judges had been granted by the law the right to impose criminal sanctions such as the imposition of adverse publicity orders to the companies that made extensive use of the so called black contract terms then these companies would have proceeded immediately to the removal of these terms from the contracts concluded with the Cypriot consumers.'<sup>129</sup> To the same lines of thought Petros Markou who had been many years the President of the consumer organization 'Cyprus consumers' association' argued that especially the huge businesses in Cyprus that care much more for their public image than the medium sized or small businesses would have decreased significantly these kind of terms from the consumer contracts since such negative publicity would have decreased significantly their profit and the number of their customers.<sup>130</sup>

### **A Brief Assessment of the New Legislative Act Dealing with the Unfair Contract Terms and the Way Forward**

In this last section a brief assessment of the Cypriot legislative act

---

– Practicing lawyer.

<sup>128</sup> Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry; Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'; Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'; Interviewee number (19) Kikis Kazamias – Practicing Lawyer; Interviewee number (20) Costas Tsirides – Practicing lawyer.

<sup>129</sup> Interviewee number (7) Dr Loucas Aristodemou – President of the consumer organization 'Cyprus Consumer's Union and Quality of Life'.

<sup>130</sup> Interviewee number (6) Petros Markou – Ex-President of the consumer organization 'Cyprus Consumers Association'.

that was promulgated by the Cypriot legislator to deal with the important topic of the unfair terms in consumer contracts will be provided. Additionally some suggestions will be made for the better protection of the Cypriot consumers from the use of unfair terms in their consumer contracts. It should be noted, as it has been reported in the introductory section, that it is not the main goal of this article to provide a complete treatment of the changes made after the European Union's intervention in the realm of the consumer topic of the unfair contract terms.

The Cypriot legislator finally enacted the law 93(I)/96 in relation to unfair terms in consumer contracts<sup>131</sup> in 1996. Many commentators have argued that one of the main reasons that the Cypriot government enacted the aforementioned law was that there was a desire for Cyprus to enter the EU and one of the conditions for this acceptance was the harmonization of Cypriot laws with the European Directives and Regulations. Additionally another interrelated reason for the promulgation of the aforementioned act was that there were many suggestions from public officials that work in the Ministry of Commerce and Industry during the period 1960-1991 for the promulgation of a law that would have dealt with the important topic of the unfair terms in consumer contracts. In fact many directors of the ministry of Commerce and Industry have stressed the fact that the Cypriot governments had delayed to regulate the aforementioned topic that is of particular importance for the Cypriot consumers.

The aforementioned law brought some important and welcome changes. More specifically the aforementioned law imported the notion of good faith<sup>132</sup> and established some criteria<sup>133</sup> that should be taken into consideration both by the administrative authorities and the Cyp-

---

<sup>131</sup> Law 93 (I)/96 'in relation to unfair terms in consumer contracts' number 3097 (8.11.96), *Official Journal of the Cypriot Republic*, 476.

<sup>132</sup> See Article 5 (3) Law 93 (I)/96 'in relation to unfair terms in consumer contracts' number 3097 (8.11.96), *Official Journal of the Cypriot Republic*, 476.

<sup>133</sup> See Article 5 (3) (a), (b) and (c) of the Law 93 (I)/96 'in relation to unfair terms in consumer contracts' number 3097 (8.11.96), *Official Journal of the Cypriot Republic*, 476.

riot judges in order to determine whether a certain standard contract term violates the principle of good faith.

Additionally another important development was that the Cypriot legislator introduced an indicative and non-exhaustive list of terms that can be considered unfair. It should be noted at this point that the list contained in the annex is the so called grey list and this means that the terms contained in that list are not declared automatically void but they can be nullified only after the Cypriot judges proceed to such determination.

Moreover the legislative act dealing with the unfair contract terms in Cyprus incorporated the so called intelligibility provision. Article 7 of the aforementioned law prescribes that the seller is obliged to offer standard contract terms that are intelligible and in the case that a standard contract term generates more than one meanings then the interpretation more favorable for the consumer must prevail.<sup>134</sup> Such a treatment for the Cypriot consumers is beneficial since the analysis of the previous sections has demonstrated that the various businesses had made an extensive use of unintelligible terms in the contracts concluded with the Cypriot consumers.

The most welcome change that the aforementioned law brought was the establishment of an official body that would deal specifically with the consumer topic of the unfair contract terms. More specifically the Director of the Department of Competition and Consumer protection has the duty to examine the complaints made by the Cypriot consumers and to determine whether any standard contract term is unfair.<sup>135</sup> Additionally the Director has the right to initiate court proceedings for the issuance of a prohibitory degree against any person that uses unfair terms in the contacts concluded with the Cypriot consumers. The aforementioned changes have increased considerably the protection offered to the Cypriot consumers since as the previous analysis

---

<sup>134</sup> See article 7 of the Law 93 (I)/96 'in relation to unfair terms in consumer contracts' number 3097 (8.11.96), *Official Journal of the Cypriot Republic*.

<sup>135</sup> See Article 9 (1) of the Law 93 (I)/96 'in relation to unfair terms in consumer contracts' number 3097 (8.11.96), *Official Journal of the Cypriot Republic*, 476.

had shown one of the most fundamental problems, prior to the enactment of this Law was that there was not an official body that could evaluate the complaints of the Cypriot consumers and proceed to the necessary actions in order to help them with the standard contract terms that were unfair.

Although the above-mentioned legislative act incorporated some provisions that elevated to a large extent the protection offered to the Cypriot consumers there are some problematic issues that still remain. One of these problems is that the Cypriot legislator did not place under the protective ambit of the aforementioned legislative act the contract terms that were the product of negotiation between the business and the Cypriot consumer.<sup>136</sup> In other words only the terms that have been formulated in advance by the business can be examined by the aforementioned law. Certainly such development cannot provide a complete satisfaction to the Cypriot consumers because as the previous analysis had shown many commentators were of the opinion that the consumers should be equally protected by both individually and non individually negotiated terms in consumer contracts. The main reason for such treatment was the fact that many businesses can utilize their superior position and impose terms to the consumers that had been the product of individual negotiation but because of consumers' ignorance or lack of the appropriate educational level were extremely unfair and created extremely onerous obligations to them. In other words the mere fact that some contractual terms are the product of negotiation between the businesses and the consumers this does not necessarily mean that they are fair and reflect equally the rights and the obligations of the two parties.

Additionally some problems arise in relation to the intelligibility provision. As we have mentioned earlier if a written term in the contract concluded between the business and the Cypriot consumer generates multiple meanings then the most favorable interpretation for the

---

<sup>136</sup> See Article 3 (1) of the Law 93 (I)/96 'in relation to unfair terms in consumer contracts' number 3097 (8.11.96), *Official Journal of the Cypriot Republic*, 476.

consumer must prevail. But the law does not prescribe what is happening when all the interpretations of a contract term are unfavorable for the Cypriot consumers. Additionally the law does not prescribe any administrative or criminal sanctions for the instances that the Cypriot businesses, the insurance and banking institutions make extensive use of unintelligible terms. According to the suggestions made by the public officials and the other commentators the new act should have imposed specific administrative sanctions like monetary fines when the various businesses incorporate incomprehensible terms in the contracts concluded with the Cypriot consumers. Moreover according to a group of commentators in the cases that there is an extensive use of unintelligible terms from the businesses then certain criminal sanctions should be prescribed such as the imposition of large fines ranging from 2000 to 5000 thousand euros and the imposition of adverse publicity orders.

Finally another important problem was that the aforementioned law did not include the so called black terms. From the aforementioned analysis it was obvious that the various commentators were of the opinion that certain terms such as the one that allows the company to automatically renew the contract concluded with the Cypriot consumer or the standard contract term that provide the right to the company to terminate the contract for any reason and ask the consumer to pay an excessive amount as a compensation should be considered by the law as 'black terms' and be deemed automatically void by the law. Unfortunately the Cypriot legislator did not proceed to such a distinction and promulgate a grey list of standard contract terms that cannot be automatically considered void but they can be nullified only by after the judges have considered the specific circumstances of each case. Additionally the Cypriot legislative act that regulates the topic of the unfair terms in consumer contracts does not prescribe specific administrative actions such as the imposition of monetary fines or other sanctions that have been highlighted above when the companies have found to have used unfair terms by the Cypriot judges.

Consequently it is submitted that the Cypriot legislator should consider in the following amendments to incorporate some or all the sug-

gestions of this article for the more effective protection of the Cypriot consumers in relation to the topic of the unfair terms in consumer contracts. Additionally the European legislator could take into consideration the aforementioned suggestions since there are continuous efforts by the European Commission for the revision of certain Directives that are dealing with different consumer issues such as the unfair terms in consumer contracts.

## **Bibliography**

### *List of interviewees*

- Interviewee number (1) Georgios Mytides – Ex-Director of the Ministry of Commerce and Industry
- Interviewee number (2) Dr Phrosso Hatjilucas – Ex-Director of the Ministry of Commerce and Industry
- Interviewee number (3) Leontios Perikleous – Ex-Director of the Ministry of Commerce and Industry
- Interviewee number (4) Ioannis Kontos – Ex-Director of the Ministry of Commerce and Industry
- Interviewee number (5) Sotiris Milikouris – Ex-employee of the Ministry of Commerce and Industry
- Interviewee number (6) Petros Markou – Ex-President of the consumer Organization ‘Cyprus Consumers Association’
- Interviewee number (7) Dr Loucas Aristodemou – President of the consumer Organization ‘Cyprus Consumer’s Union and Quality of Life’
- Interviewee number (8) Elena Maliali – Vice President of the consumer organization ‘Cyprus Consumer’s Union and Quality of Life’
- Interviewee number (9) Aristos E. Aristidou – Managing Director of Insurance company
- Interviewee number (10) Paniccos Malactos – Director of Insurance company
- Interviewee number (11) Michael Kyprianou – Director of Banking institution

Interviewee number (12) Savvas Stouppas – Director of Banking institution and Deputy Mayor of Limassol

Interviewee number (13) Afxentis Afxentiou – Director of Banking institution

Interviewee number (14) Nicos Mozoras – Ex-Director of the Cyprus Telecommunications Authority

Interviewee number (15) Michalis Elpidorou – Ex-employee of the Cyprus Telecommunications Authority

Interviewee number (16) Spyros Savvides – Ex-Director of Electricity Authority of Cyprus

Interviewee number (17) Demetrakis Malialis – Ex-Director of the Electricity Authority of Cyprus

Interviewee number (18) -Zacharias Koulias – Practicing lawyer

Interviewee number (19) Kikis Kazamias – Practicing Lawyer

Interviewee number (20) Costas Tsirides – Practicing lawyer

