

Abstract of advisory report:

[Faster, more streamlined resolution of consumer complaints needed, 2017/08]

[(Consumentengeschillen moeten sneller en eenvoudiger opgelost kunnen worden, 2017/08)]

For at least ten years, the Social and Economic Council's Committee for Consumer Affairs (SER/CCA) has been pointing out the need to improve judicial and extrajudicial disputes resolution. This advisory report, issued in 2017, is based on the SER/CCA's advisory brief of 2016 in which it makes specific recommendations aimed at the rapid elimination of problems in the current disputes resolution system.

Events since the advisory brief

Two events that occurred since publication of the advisory brief have persuaded the SER/CCA to once again draw attention to the need for proper access to effective and efficient judicial and extrajudicial disputes resolution.

In early March 2017, The Hague Institute for Innovation of Law (HiIL), a judicial research institute, published a manifesto. HiIL researchers concluded that our judiciary is good for legal professionals but bad for ordinary people. For example, existing legal proceedings no longer address the everyday problems of regular citizens. Increasingly, legal problems go unresolved because proceedings are based on the 'adversarial model': the legal system pits one party against another, instead of helping them find a solution acceptable to both.

In early April 2017, the Council for the Judiciary sent a communication to the new Government's *informateur* (a politician charged by the Crown with examining a proposed cabinet formation) in which it pointed out the need for legislation that would make simple, effective legal proceedings possible.

Recommendations for judicial disputes resolution

The SER/CCA makes the following three recommendations.

1. ***Rapid introduction of streamlined proceedings***
The process of streamlining and digitalising judicial proceedings by rolling out the Quality and Innovation in Justice Programme will be most effective in the case of proceedings before the subdistrict courts. These are the courts that hear disputes arising from consumer complaints, among other things.
2. ***Assess e-subdistrict court proceedings***
It is the SER/CCA's impression that e-subdistrict court proceedings are not very popular. That may be because these proceedings are relatively unknown and have been given little publicity. To investigate why the public makes so little use of such digital proceedings, the SER/CCA is offering to serve as a platform for the stakeholders.
3. ***Take a different approach to the e-subdistrict court proceedings***
Make access to the e-subdistrict court more attractive by:
 - eliminating the need for both parties to file a joint request for digital dispute

resolution

- allowing appeals when the sum involved exceeds a certain limit.

Recommendations for extrajudicial disputes resolution

The SER/CCA recommends the following.

1. *Monitor the quality of complaints boards*

In the Netherlands, most extrajudicial disputes arising from consumer complaints are brought before complaints boards. In the vast majority of cases, these are boards affiliated with the Dutch Foundation for Consumer Complaints Boards. Disputes between consumers and financial service providers are submitted to the Financial Services Complaints Institute (Kifid). In the SER/CCA's view, it is important to monitor the quality of disputes resolution in consumer matters by ensuring that such disputes are heard by recognised complaints boards. They must therefore undergo regular quality and accessibility audits. The SER/CCA recommends that all recognised complaints boards should be audited in this manner, and it would be happy to assist in drafting the relevant audit questions.

2. *Digital proceedings before complaints boards*

Owing to the funding relationship between the Ministry of Security and Justice and the Dutch Foundation for Consumer Complaints Boards, the SER/CCA would ask the Ministry to ensure the rapid and immediate introduction of digital proceedings before the complaints boards affiliated with the Dutch Foundation for Consumer Complaints Boards.

3. *Maintain annual government funding for Dutch Foundation for Consumer Complaints Boards*

The continuity of alternative disputes schemes in the Netherlands can be ensured by maintaining the annual funding that government awards the Dutch Foundation for Consumer Complaints Boards. The outcome of the Foundation's audit must, however, be positive.

In conclusion, the SER/CCA notes that it is difficult for average consumers to grasp which options are available to them to resolve a consumer dispute. Neither is it always clear to many business owners which judicial and extrajudicial options are available. The SER/CCA therefore recommends developing a 'roadmap' for consumer disputes. The SER/CCA would be happy to serve as a platform to support the development of such a roadmap.