



VOLUNTARY PEER REVIEW OF CONSUMER
PROTECTION LAW AND POLICY

GABON



United
Nations

Geneva, 2023



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NOTE

The United Nations Conference on Trade and Development (UNCTAD) serves as the focal point within the United Nations Secretariat for all matters related to consumer protection policy. UNCTAD promotes the United Nations Guidelines for Consumer Protection and encourages interested Member States to create awareness of the many ways in which Member States, businesses and civil society can foster consumer protection in the provision of public and private goods and services. UNCTAD seeks to further the understanding of the contribution of consumer protection law and policy to development and to create an environment enabling the efficient functioning of markets. The work of UNCTAD is carried out through intergovernmental deliberations, capacity-building activities, policy advice, and research and analysis on the interface between consumer protection, competition and development.

Voluntary peer reviews of consumer protection law and policy conducted by UNCTAD are mandated by the General Assembly in its resolution 70/186 of 22 December 2015 adopting the United Nations Guidelines for Consumer Protection. The Guidelines seek, among other things, to assist countries in achieving or maintaining adequate protection for their population as consumers.

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Voluntary peer reviews of consumer protection law and policy are conducted by UNCTAD at the annual meetings of the Intergovernmental Group of Experts on Consumer Protection Law and Policy or at the United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.

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I. INTRODUCTION

In its resolution of 22 December 2015 on consumer protection, the General Assembly of the United Nations reaffirmed the United Nations Guidelines for Consumer Protection¹ as a set of principles that Governments around the world should use as a basis for the formulation and implementation of consumer protection policies.² The guidelines support the development of appropriate consumer protection legislation and the establishment of adequate institutions to enforce it.

In addition to aspects related to the domestic law of States, the United Nations guidelines promote national, subregional and multilateral cooperation and encourage the sharing of experiences.

The General Assembly also decided to establish the Intergovernmental Group of Experts on Consumer Protection Law and Policy within the United Nations Conference on Trade and Development (UNCTAD) to provide the international institutional machinery for the guidelines. The Intergovernmental Group of Experts is mandated, *inter alia*, to conduct voluntary peer reviews of the national consumer protection law and policy of Member States, as implemented by the competent authorities. It strongly encourages interested Member States to volunteer for such peer reviews. In this context, at the sixth session of the Intergovernmental Group of Experts, held on 18 and 19 July 2022 in Geneva, Gabon volunteered to submit its national consumer protection policy and framework for review.

Since the establishment of the international peer review mechanism, only two African States have ever volunteered to have their policies examined. Gabon is the second African State, after Morocco, to submit its policies and legislation for peer review.

The decision to submit to peer review is a political one that reflects the ambition of the Government of Gabon to comply with the United Nations guidelines.

The country has recently established the Ministry of Consumer Affairs and Cost of Living.³

Voluntary peer reviews in the field of consumer protection are a recent innovation. According to the note by the UNCTAD secretariat on the framework for voluntary peer reviews on consumer protection law and policy,⁴ this mechanism provides an external and independent assessment of the effectiveness of consumer protection law and policy in a given country. Its aims are to identify the challenges to be addressed and areas to be improved in the legal and institutional frameworks, thereby contributing to enhancing the quality and efficiency of consumer protection regimes; to assess the consumer protection awareness of relevant stakeholders and their contributions in this area; to formulate and recommend appropriate measures, designed in consideration of the economic and developmental particularities of each country, to address these challenges; and, where appropriate, to assist countries in implementing the recommendations by developing capacity-building projects in consultation with the country concerned.

This report will serve as a guide for the meeting on the voluntary peer review of the consumer protection law and policy of Gabon, to be held at the session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy in July 2023 in Geneva.

The analytical work initially focused on a review of national legislation and the relevant Community directives and regulations that are either applicable or are in the process of being introduced, and which were considered in the light of the United Nations guidelines.

¹ Hereinafter, “the United Nations guidelines”.

² The United Nations guidelines are simple recommendations. States are invited to draw inspiration from them when developing legislation or regulations governing their consumer protection policies.

³ A Minister for Consumer Affairs and Cost of Living was appointed pursuant to the presidential decree of 9 January on the composition of the Government. The first person to hold this important post is René Ndemezo Obiang.

⁴ UNCTAD, “Framework for voluntary peer reviews of consumer protection law and policy”, Note by the UNCTAD secretariat (TD/B/C.I/CPLP/6), 2017.

II. POLITICAL, ECONOMIC AND SOCIAL CONTEXT

Gabon is a country in Central Africa, crossed by the equator and bordering Cameroon, Equatorial Guinea and the Republic of the Congo. A former French colony, it has been independent since 17 August 1960.⁵

The official language of Gabon is French, which is spoken by an estimated 80 per cent of the population. The country is home to almost 50 ethnic groups, none of which forms a majority. Three quarters of the population are Catholic and one fifth are Protestant. Gabon is a forested country where flora and fauna are well preserved and protected in 13 national parks, two of which – Lopé and Ivindo – are UNESCO⁶ world heritage sites.

Significant forestry and oil resources, combined with the relatively small population, estimated at 2.2 million inhabitants, make Gabon one of Africa's most prosperous countries. According to the United Nations, it has the highest human development index in sub-Saharan Africa and the second highest per capita income, behind Equatorial Guinea and ahead of Botswana. Libreville is the administrative capital and Port-Gentil the economic capital. The country has an area of 267,667 km², 89 per cent of which is forested.⁷ According to the latest World Bank report on Gabon, the unemployment rate stands at 20 per cent overall, 32 per cent among women and 36 per cent among young people. The poverty rate is estimated at 33.4 per cent and the school enrolment rate at 70 per cent. Ninety-eight per cent of the population has access to electricity and 89 per cent has access to drinking water.⁸ Life expectancy is 64.8 years for men and 68.2 years for women. Half of the population has health insurance. The infant mortality rate stands at 44.8 deaths per 1,000 live births.⁹

Politically and institutionally, Gabon, which defines itself as a secular and democratic republic,¹⁰ is a semi-presidential republic¹¹ in which the President is Head of State and the Prime Minister is Head of Government.

At the subregional level, Gabon belongs to the Central African Economic and Monetary Community (CEMAC)¹² and the Economic Community of Central African States (ECCAS),¹³ which has its headquarters in Libreville. It is also a member of the Organization of Islamic Cooperation (OIC).

Gabon has embarked on numerous reforms in the past 20 years. Significant strides have been taken in the area of women's rights under the "Gabon Equality" national strategy. Several high offices are held by women, including those of Vice-President of the Republic, President of the Senate, President of the Constitutional Court, Minister of Economic Affairs and Recovery, Minister for the Budget and Public Accounts, Minister of Defence, Minister of Justice and Mayor of Libreville. Gabon has also made significant progress in the field of social protection.¹⁴

¹⁰ Constitution of Gabon, Act No. 3/91 of 26 March 1991, art. 2.

¹¹ Constitution of Gabon.

¹² The objectives of CEMAC are to establish ever closer union between the peoples of member States; to promote national markets through the elimination of barriers to intercommunity trade, the coordination of development programmes and the harmonization of industrial projects; to develop the solidarity of member countries for the benefit of disadvantaged countries and regions; and to create a true African common market. The CEMAC member States are Cameroon, the Central African Republic, Chad, Equatorial Guinea, Gabon and the Republic of the Congo. See <https://www.cemac.int>.

¹³ The aims of ECCAS are to promote and strengthen harmonious cooperation and dynamic, balanced and self-sustained development in all fields of economic and social activity, particularly the fields of industry, transport and communications, energy, agriculture, natural resources, trade, customs, monetary and financial matters, human resources, tourism, education, culture, science and technology and the movement of people, in order to achieve collective self-reliance and raise living standards. Its member States are Angola, Burundi, Cameroon, the Central African Republic, Chad, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, the Republic of the Congo, Rwanda and Sao Tome and Principe. See <https://ceec-eccas.org/>.

¹⁴ Notably in terms of access to civil registration, through the extension of birth registration deadlines and the issuance of birth certificates free of charge in hospitals. Furthermore, following a tripartite social dialogue, Gabon has amended its

⁵ Official website of the Office of the President of Gabon: <https://presidence.ga/histoire-du-gabon/> (accessed on 29 December 2022).

⁶ United Nations Educational, Scientific and Cultural Organization.

⁷ https://gabon.un.org/sites/default/files/2022-05/ONU_Rapport_annuel_2021_Gabon (accessed on 4 January 2023).

⁸ Ibid.

⁹ Ibid.

In economic terms, Gabon has a GDP per capita of US\$ 7,490. It has an export-based economy, the main products being oil (72 per cent), manganese (17 per cent) and timber (10 per cent).¹⁵ After a year in which it was strongly impacted by the coronavirus disease (COVID-19) pandemic, the economy rebounded in 2021. GDP growth recovered to 1.5 per cent after a contraction of 1.8 per cent in 2020. This upturn in

activity was driven by improving commodity markets, particularly the oil market, with the average price per barrel rising from US\$ 41.3 to US\$ 69.1 according to the International Monetary Fund (IMF). Non-oil activities, notably the timber, manganese and industrial agriculture sectors, posted 2.7 per cent growth, after shrinking by 1.7 per cent in 2020.

Labour Code, which now enshrines the right to work for all, including persons with disabilities, and provides more equal access to social protection.

¹⁵ [https://gabon.un.org/sites/default/files/2022-05/ONU – Rapport annuel 2021 Gabon](https://gabon.un.org/sites/default/files/2022-05/ONU_Rapport_annuel_2021_Gabon) (accessed on 4 January 2023).

III. FOUNDATIONS AND HISTORY OF CONSUMER PROTECTION LAW AND POLICY

Consumer protection appears to be an ongoing concern of the Gabonese authorities. Historically, however, the process was far from assured.¹⁶ Prior to independence, Gabon had no consumer movement or consumer protection legislation, as the colonial authorities were fearful of social movements that could be seen as comparable to trade union activities.

After independence, the first significant consumer protection law was the Prices Act.¹⁷ At that time, Gabonese consumers faced specific circumstances and numerous difficulties, including a weak industrial sector, the dependence of the national economy on imported goods and services, and the predominance of the informal economy.

As a result, the Government, undoubtedly preoccupied with other political choices linked to the country's economic situation, decided to adopt certain specific laws, as described below. Between the enactment of the Prices Act, which fully enshrined the principle of consumer information through price advertising, and 1990, several other laws covering specific areas of consumer protection were adopted. These were essentially statutory instruments.

In 1990, with the fall of the Berlin Wall, two trends emerged. Firstly, pressure from international financial institutions forced African Governments to privatize State-owned enterprises or their constituent parts;¹⁸ and, secondly, a wind of freedom brought about the birth of a consumerist movement in Africa. In this context, the first consumer association, a non-governmental organization called the Gabonese

Consumer Association (ASCOG), was established at a national conference. Nevertheless, subsequent laws did little to change the consumer protection environment. It was not until 8 April 2018 that CEMAC States ushered in a veritable revolution with the adoption of Directive No. 02/19-UEAC-639-CM-33 harmonizing consumer protection within the Central African Economic and Monetary Community.

At the institutional level, the original predecessor of the Directorate General for Competition, Consumer Affairs and Fraud Prevention (DGCCRF)¹⁹ was a department of the customs service. In 1963, shortly after independence, the public authorities set up an administration whose main activity was the regulation of prices. Prices were controlled by the Director of Customs and Excise under the authority of the Minister of Economic Affairs.

The competence of the Directorate General of Prices and Economic Surveys (DGPEE) to monitor the quality and safety of products and services was confirmed by Ordinance No. 50/78 of 21 August 1978 on the quality control of food products and foodstuffs and fraud prevention. In the late 1980s, the public authorities decided to include price liberalization in a package of economic reforms with the aim of reducing macroeconomic imbalances. At the time, a global economic crisis had led most developing countries to adopt structural adjustment programmes²⁰ negotiated with the Bretton Woods institutions (the IMF²¹ and the World Bank). In that context, Gabon put in place a programme of reforms focused on increased trade liberalization and export promotion. The first structural adjustment programme was signed in 1986. It was against this backdrop that Act No. 5/89 of 6 July 1989, the Competition Act, was passed three years later.²² Act No. 14/98 of 23 July 1998 on the competition regime reaffirmed the Government's determination to liberalize prices and regulate competition.

¹⁶ Jean Pierre Pedro Dianga Nganzi, "Le droit du marché en zone de la communauté économique et monétaire de l'Afrique centrale (CEMAC) : du droit national du Gabon vers le droit Communautaire", doctoral thesis, University of Montpellier 1, June 2008, p. 48 ff. The author maintains that the history of consumer affairs in Gabon actually long predates the colonial period, even if the first consumer association was not founded until a national conference in 1990.

¹⁷ Act No. 29/63 of 15 June 1963.

¹⁸ Jacques Megam, "Le régime des investissements privés étrangers dans l'espace OHADA : le cas du Cameroun", doctoral thesis supervised by Prof. Yves Reinhard and Prof. Grégoire Jioque and defended on 5 November 2009, University of Jean Moulin – Lyon 3, Faculty of Business Law, p. 11.

¹⁹ The body, reformed in September 2022, that is currently in charge of consumer protection in Gabon.

²⁰ Or "SAPs".

²¹ International Monetary Fund.

²² <https://www.dgcc.ga/historique> (accessed on 31 December 2022).

Notwithstanding the powers that had already been attributed to the Directorate General of Prices and Economic Surveys, which formed part of the Ministry of Economic Affairs and Finance, the Government established the Directorate General for Consumer Affairs under the Ministry of Trade by decree of 19 September 1985.²³

Unlike the Directorate General of Prices and Economic Surveys, which protected consumers only through price controls, the Directorate General for Consumer Affairs had extensive resources to carry out its protection mandate. These included a quality control laboratory to guarantee the quality of food products offered to consumers, a competition department, a consumer affairs and information department and a standardization department.

To address the situation of having two directorates with similar functions, the Government decided to merge them and in 2004 established the Directorate General of Competition and Consumer Affairs.²⁴

Finally, a new decree, which entered into force on 22 September 2022, changed the name of the Directorate General of Competition and Consumer Affairs to the Directorate General for Competition, Consumer Affairs and Fraud Prevention and reformed its mandate for consumer protection, which had not been sufficiently taken into account in the activities of the Directorate General of Competition and Consumer Affairs.

²³ Decree No. 1574/PR/MICOCO of 19 September 1985.

²⁴ Decree No. 665/PR/MEFBP of 9 August 2004 on the establishment, remit and organization of the Directorate General of Competition and Consumer Affairs.

IV. LEGISLATIVE AND REGULATORY FRAMEWORK

In Gabon, consumer rights are governed by Central African Economic and Monetary Community (CEMAC) law and domestic law.

Community law consists in a directive harmonizing consumer protection within CEMAC and various sector-specific consumer protection regulations, which are directly applicable.

As for domestic law, a bill on consumer protection will close legislative gaps in this area. It is intended that the future law will organize and supplement the various domestic laws in force that have a bearing on consumer protection.

The CEMAC legislative framework is therefore much more developed than the national framework. This report will consider first Community law and then domestic law.

A COMMUNITY LAW

The CEMAC legislative framework is made up of directives and regulations. Directives are instruments for the harmonization of a given community policy. They are binding in their objectives, but have no direct effect and require transposition into national law by the member States concerned. Member States are free to decide whether the directive is transposed into national law through a law, ordinance or presidential decree. Regulations, on the other hand, are an instrument for standardizing a community policy. They are binding in their entirety and have direct effects. Once signed, they are directly applicable without the need for transposition.

1. Directive No. 02/19-UEAC-639-CM-33 harmonizing consumer protection within CEMAC

This Directive is the benchmark community standard when it comes to harmonizing policy so that all member States share a common vision on consumer protection, even if implementation can vary from one State to the next.

To be applicable, the Directive must be transposed into national law by the member States. Transposition depends on each State, but must take the form of

an act that carries the force of law and is therefore general and binding on all parties concerned. A deadline of two years was set for CEMAC member States to transpose the Directive into their national law. Neither Gabon nor any other CEMAC country has yet done so.

Article 1 of the Directive states that its aim is “to establish the general framework for consumer protection in the member States, ensuring that consumers are afforded a high level of protection and quality of life”.

The Directive recognizes 13 fundamental rights of consumers, which are inspired by international standards and, in particular, the United Nations Guidelines for Consumer Protection.²⁵ These rights are:

- a. The right to education, including education on the environmental, social and economic consequences of consumer choice;
- b. The right to have access to adequate information to enable consumers to make informed choices according to individual wishes and needs;
- c. The right to have access to essential goods and services;
- d. The right to sustainable consumption patterns;
- e. The right to a healthy environment;
- f. The right to protection from risks to their health and safety;
- g. The right to quality goods and services on the market;
- h. The right to the promotion and protection of their economic interests;
- i. The right to the protection of their privacy and personal data;
- j. The right to appropriate remedies and effective consumer dispute resolution;
- k. The right to representation to defend collective interests shared with other consumers;

²⁵ Directive No. 02/19-UEAC-639-CM-33, art. 3.

- l. The right to form consumer associations or organizations;
- m. The right to participate in decision-making processes affecting them.

The Directive's consumer protection provisions are based on the United Nations guidelines and guarantee the rights enshrined therein. They concern recognition of consumer vulnerability; fair business practices; equity in contracts and remedies; prevention of harm to consumer interests; caution in the event of scientific uncertainty about the dangers and risks associated with a good or service; proportionality of market surveillance measures and penalties; impartiality and transparency of institutions responsible for implementing consumer legislation; and non-discrimination in the application of the provisions in force.²⁶

The scope of the Directive is particularly broad. In terms of its material scope, it applies to "all transactions between a consumer and an economic operator relating to the supply, distribution, sale, exchange and use of goods or services".²⁷ As for its territorial scope, the Directive envisages three scenarios under the applicable law: the economic operator or consumer resides in one of the member States; the communication relating to a good or service or the offer or acceptance of a contract is made in or sent to a place in one of the member States; or the business practice is carried out or received in one of the member States.²⁸

The Directive sets out the content of the protected rights that member States must implement. Among these fundamental rights, special emphasis is placed on the rights to consumer education and to consumer information.²⁹

In fact, there is a need to distinguish between consumer information and consumer education. The principle of information consists in raising consumers' awareness and informing them about a specific consumer issue, whereas consumer education involves the long-term preparation and support of consumers through established programmes.

²⁶ Ibid., art. 4 (2).

²⁷ Ibid., art. 7 (1).

²⁸ Ibid., art. 9.

²⁹ The content of these rights is set out in articles 12 to 21 of the Directive.

By enshrining the right to consumer education, the Directive requires States to draw up education, awareness-raising and information programmes for consumers and consumer associations;³⁰ to include educational programmes in secondary and tertiary education;³¹ and to develop specific programmes for rural and/or illiterate consumers.³²

As for the right to consumer information, the Directive imposes on economic operators a general obligation to provide information. This information must be assessed in the light of the consumer's vulnerability and the legitimate trust he or she may have in the economic operator.³³

The Directive recognizes businesses as the key actors in respect of the obligation of information. Nevertheless, in an era of digital technology, social networks and other means of instantaneous communication, the public authorities share the prerogative to keep consumers informed, including by involving consumer associations and specialized public bodies.³⁴

Considering that the mere existence of the right to consumer information is insufficient, the Directive makes provision for its effective implementation and enjoyment. In particular, article 17 stipulates that consumer information must be provided in writing. It would be advisable for this right to be contextualized in national laws, since Gabon, like all other African countries, has an oral tradition. Responses therefore need to be adapted to the country's specific context, with particular regard for technological development and the growth of e-commerce.

Article 18 of the Directive provides that information must be clear, comprehensible, legible, accurate, sufficient, appropriate and provided prior to the purchase or use of the good or service.

The Directive also determines what the exact content of the information should be.³⁵

Furthermore, the Directive protects consumers from certain business practices (arts. 31–77) and, in

³⁰ Directive No. 02/19-UEAC-639-CM-33, art. 12.

³¹ Ibid., art. 13.

³² Ibid., art. 14.

³³ Ibid., art. 16.

³⁴ National consumer institute, national consumer council, consumer safety commission, sectoral agencies, etc.

³⁵ Directive No. 02/19-UEAC-639-CM-33, art. 21.

particular, prohibits three types of practices, providing for:

- a. The prohibition of unfair business practices;³⁶
- b. The prohibition of false and misleading business practices;³⁷
- c. The prohibition of abusive business practices;³⁸
- d. Protection of consumers from business practices likely to harm their interests, such as tied selling, refusal to sell, promotional sales, competitions and lotteries;
- e. Protection of consumers from new business practices such as distance selling and electronic sales, and from the misuse of their personal data.

The prohibition of certain business practices is not in itself enough to protect consumers. With a view to increasing the effectiveness of contracts between economic operators and consumers, title V of the Directive³⁹ sets out provisions on their conclusion and performance, prioritizing the major principles of consumer protection such as interpretation in the consumer's favour⁴⁰ and economic balance in contracts.

The Directive also strengthens consumer protection by introducing a specific legal regime on unfair terms. Article 85 sets out the principle of prohibition of unfair terms in all consumer contracts. Article 88 contains a list of 27 terms to be considered unfair. In addition, all member States must set up an unfair terms commission, whose legal regime is defined under articles 136–144. Each such commission will be responsible for dealing with matters related to the formation, presentation, content and, above all, the balance of general contract conditions.⁴¹ Under article 139, they will have the power to issue opinions and recommendations on general contract conditions. They will be required to publish an annual activity report including the full text of their opinions, recommendations and proposals.⁴²

It will therefore be incumbent upon the Gabonese legislature to operationalize an unfair terms commission, which will be responsible for placing unfair terms reported to it on blacklists or grey lists. When a term is blacklisted, it will be left to the courts to annul the clause in question.

The Directive also addresses the safety of products and services.⁴³ Article 103 prohibits economic operators from placing or making available on the market dangerous products or services.⁴⁴ Economic operators are also under a general obligation to assess risks, an obligation to provide information to consumers to enable them to assess the risks inherent to a product or service,⁴⁵ and an obligation to ensure product traceability.⁴⁶ Furthermore, the Directive establishes the principle that producers, importers and even distributors, if the producer or importer cannot be identified, are liable for damage caused by a dangerous product. The Directive requires member States to set up a commission responsible for consumer safety.

2. CEMAC regulations

Many CEMAC regulations govern consumer protection. They are important because, on the one hand, they deal specifically with certain aspects of consumer protection and, on the other, they are directly applicable, meaning that consumers can demand their enforcement before the competent national and Community courts. As CEMAC regulations, they take precedence over domestic law and are directly applicable. This analysis focuses on financial services and air transport, given their impact on consumer welfare.

(a) Financial services

In its resolution 70/186 on consumer protection, adopted in December 2015, the General Assembly of the United Nations recognized that “consumer confidence and trust in a well-functioning market for financial services promotes financial stability, growth, efficiency and innovation over the long term and that the recent financial crisis places a renewed focus on consumer protection, calling for effective regulatory, supervisory and enforcement frameworks

³⁶ Ibid., art. 32.

³⁷ Ibid., art. 35.

³⁸ Ibid., art. 40.

³⁹ Ibid., arts. 78–102.

⁴⁰ Ibid., art. 84.

⁴¹ Ibid., art. 137.

⁴² Ibid., art. 142.

⁴³ Ibid., arts. 103–123.

⁴⁴ Ibid., art. 103.

⁴⁵ Ibid., art. 109.

⁴⁶ Ibid., art. 114.

in the financial sector to contribute to the welfare of consumers". In the same resolution, the General Assembly decided to adopt the revised United Nations Guidelines for Consumer Protection, including a new section on financial services that addressed emerging issues such as financial regulation, enforcement and oversight, consumer education and literacy, disclosure, responsible business conduct, data protection and financial inclusion. Oversight and enforcement institutions are needed to ensure that healthy financial markets work for the benefit of consumers.⁴⁷

CEMAC regulations on financial services cover guaranteed minimum banking services, banking products and services, and protection against usury.

(i) Guaranteed minimum banking service

On 20 July 2020, CEMAC States also adopted Central African Banking Commission (COBAC) Regulation R-2020/04 on the guaranteed minimum banking service.

This regulation grants all consumers in the CEMAC area the right to a minimum banking service and determines the scope of the services concerned. It governs the opening and maintenance of accounts and all obligations relating to banking transactions in the CEMAC area.

The regulation, which entered into force on 1 January 2021, applies not only to credit and payment institutions, but also to microfinance institutions. For the latter, a transitional period of 24 months, until 31 December 2023, was established. However, this extended implementation period does not apply to several of the basic banking services listed in article 3, which must be provided to consumers free of charge now that the regulation has entered into force. These include account opening and balance inquiries.

⁴⁷ Note by the UNCTAD secretariat on financial consumer protection, including financial education and literacy (TD/B/C.I/CPLP/29), Geneva, 6 May 2022. This document states that consumer financial services comprise a broad range of retail financial products and services (such as current and savings accounts, payment services, remittances, credit cards, mortgages, insurance and investment products) that financial institutions, whether banks, insurance companies or financial intermediaries, offer to consumers. The global financial crisis of 2008/09 served to bring financial consumer protection, financial risk management and financial services regulation to the forefront of policymakers' attention worldwide.

(ii) Banking products and services

Regulation No. 01/20/CEMAC/UMAC/COBAC of 3 July 2020 relates to protection for consumers of banking products and services in CEMAC. It defines the consumer of banking products and services as any natural person who, in contracts related to banking products or services, is acting for purposes which are outside his or her trade, agricultural, business, commercial or professional activities.⁴⁸ The regulation also covers mobile payments, since it makes no distinction between the means used to access banking services. It does not provide for a specific legislative framework on bank fraud. However, under ordinary law, consumers can lodge criminal complaints and have the right to take legal action.

The regulation requires banks to publish the banking terms and conditions applicable to clients in accordance with title IV of the Central African Monetary Union⁴⁹ Ministerial Committee Regulation of 20 December 2019 on annual percentage rates, the prevention of usury and the publication of banking terms and conditions in CEMAC.⁵⁰

The regulation prohibits any advertising of a banking product or service aimed at consumers that includes, in any form whatsoever, false or misleading claims, information or representations concerning one or more of the following elements: existence and date of availability, nature of the product or service offered, price and conditions of sale, conditions of use, scope of the commitments assumed by the consumer, scope of the commitments assumed by the institution, or the identity or nature of the institution. It also prohibits the use of e-mail for advertising purposes without the prior express consent of the consumer.⁵¹

Article 17 of the regulation stipulates that when extending loans, institutions must collect documents and information enabling them to determine the consumer's financial situation, exposure to financial risks and solvency.⁵²

⁴⁸ Article 1 of Regulation No. 01/20/CEMAC/UMAC/COBAC of 3 July 2020 on protection for consumers of banking products and services in CEMAC.

⁴⁹ CAMU.

⁵⁰ Regulation No. 01/20/CEMAC/UMAC/COBAC, art. 7.

⁵¹ Ibid., art. 8.

⁵² Such information includes that relating to the consumer's financial commitments, namely loan amounts, maturities and repayment conditions, collateral, borrowing or repayment capacity, credit history and payment history.

The regulation also guarantees contractual balance.⁵³ In this respect, institutions must obtain the consumer's consent, which cannot be presumed. Under article 21 of the regulation, any agreement must allow for the consumer to request a cooling-off period of at least three days counted from the receipt of the offer, during which time the consumer may not accept the offer.

Consumer rights have also been strengthened in respect of direct marketing. In such cases, consumers have 14 days to exercise their right of withdrawal, without having to give reasons or pay a penalty.⁵⁴

Unilateral modifications by the institution of the terms and conditions of an ongoing agreement are prohibited and therefore null and void.⁵⁵

The regulation protects consumers from certain specific unfair terms. Accordingly, it provides for a scenario in which the agreements concluded between regulated institutions and consumers are unfair and therefore prohibited. Unfair terms include those which exonerate, exclude, reduce or limit the institution's liability; those which entail the loss of guaranteed rights and freedoms; those which reserve the right of the institution to unilaterally modify the characteristics of the product to be delivered or the service to be provided; and those which create contractual conditions that are unfair, unreasonable, inequitable or punitive, or which make the consumer liable for defects, deficiencies or inadequacies that are not immediately apparent.

The regulation also protects consumers against the misuse of their personal data.⁵⁶ For example, institutions are prohibited from collecting, storing, processing or sharing consumers' sensitive data. In the view of the legislature, the use of these data poses a greater problem than their collection, since they can be transferred without the consumer's consent. There is no distinction between "sensitive data" and other financial data, which are generally considered highly sensitive.

Article 33 obliges regulated institutions to ensure the security of their clients' payment instruments and means of payment. In the event of a fraudulent or unauthorized payment, the payer's institution must refund the amount of the transaction within one

month. These rules are supplemented by a previous Regulation, No. 04/18/CEMAC/UMAC/COBAC of 21 December 2018 on payment services in CEMAC, which provides for the prompt handling of consumer complaints, direct access for mediators with simplified referral conditions, and the participation of consumer associations in the defence of consumers' collective interests.

All of these rules would be ineffective without provision for an appropriate dispute settlement mechanism. The regulation therefore provides for the processing of consumer complaints and remedies. Regulated institutions must put in place arrangements, procedures and means – which must be free, impartial and fair – for the monitoring, reception and handling of consumer complaints.⁵⁷

The regulation establishes a mediation mechanism for the settlement of disputes between regulated institutions and consumers in connection with the marketing or supply of banking products or services⁵⁸ – a mechanism developed in COBAC Regulation No. R-2020/06 of 30 July 2020 on the handling of consumer complaints regarding banking products and services in CEMAC.⁵⁹ The mediation is organized by a body called the National Economic and Financial Committee under the supervision of the Central African Banking Commission. Article 36 of the regulation stipulates that any referral to the mediator must be preceded by the submission of a prior written claim to the regulated institution that has been either rejected or not acted upon.

Article 38 authorizes associations duly registered with the Central African Banking Commission to defend the interests of consumers, provided that they have been approved by the national authorities, enabling them to assist consumers in the pursuit of claims against regulated institutions and to initiate mediation, arbitration or legal proceedings. These associations also have the option of applying to the competent national courts to exercise the rights granted to civil parties in the event of direct harm to the collective interests of consumers.

Under article 43 of the regulation, the Central African Banking Commission ensures that regulated

⁵³ Regulation No. 01/20/CEMAC/UMAC/COBAC, title 5.

⁵⁴ *Ibid.*, art. 22.

⁵⁵ *Ibid.*, art. 23.

⁵⁶ *Ibid.*, title 6.

⁵⁷ *Ibid.*, art. 34.

⁵⁸ *Ibid.*, art. 35.

⁵⁹ This regulation entered into force on 1 January 2021, except for the provisions on mediation, which are applicable from 1 January 2023.

institutions comply with the rules designed to prevent unfair business practices and guarantee the protection of consumers of banking products and services.⁶⁰ When the Commission detects inadequacies, failures or violations of the regulation by a regulated institution, it may apply remedial, restructuring or disciplinary measures in order to punish the detected violations, preserve or re-establish normal operating conditions or, if necessary, settle the institution's liabilities.⁶¹

Lastly, the regulation provides for the imposition of criminal penalties on regulated institutions. Any manager or employee of an institution who provides incorrect information on the price or quality of technologies, products or services supplied to a consumer is punishable by 6 months' to 2 years' imprisonment and a fine of between 5,000 and 1,000,000 CFA francs. Any manager or employee who abuses the weakness or ignorance of a consumer in order to make him or her enter into commitments relating to a banking product or service faces a penalty of 6 months' to 5 years' imprisonment and a fine of 100,000 to 5,000,000 CFA francs.⁶²

(iii) Protection against the variability of annual percentage rates and against usury

On 10 August 2020, CEMAC States adopted a regulation to protect consumers against the variability of annual percentage rates and usury.⁶³ The aims of the regulation include the protection of financial services consumers by promoting transparency, fairness and effective competition. Article 5 provides that annual percentage rates (APRs) are composed of specific elements, such as the contractual or nominal interest rate, insurance premiums linked to the setting up of the loan, and remuneration and fees paid to intermediaries in banking transactions. The APR

must be calculated each time the credit agreement is amended, in accordance with the contractual clauses and the methods established by the Central Bank for calculating APR for different types of loan.⁶⁴ Under article 9, regulated institutions must inform borrowers in writing of the APR applicable to the proposed transaction, specifying the components of the APR, before the credit agreement is signed. Moreover, institutions must periodically declare, to the National Economic and Financial Committee of the country in which they are established, the annual percentage rates applicable to all loans granted to their clients.⁶⁵

The National Economic and Financial Committee⁶⁶ centralizes APR data and information and calculates and publishes average APRs by loan category.⁶⁷ Under article 11, institutions must periodically declare the APRs applicable to all loans granted to their clients.

Regarding the provisions on usury, article 15 of the regulation defines usury as any loan, or any agreement concealing a loan, for any purpose and by any person, at an APR which at the time of the agreement exceeds the usury rate set by the Central Bank's monetary policy committee.

Article 18 of the regulation stipulates that institutions must display at their counters the usury rates set by the monetary policy committee and publish them by all appropriate means, while article 19 specifies that borrowers and lenders are free to negotiate APR and that borrowers must be informed in writing of the usury rate corresponding to the loan offered.

(b) Air transport

In the domain of air transport, the United Nations guidelines recommend that Member States should, in particular, address the cross-border challenges raised by such activity, including cooperation and information-sharing with other Member States for the purpose of enforcing the relevant regulations, and should also cooperate with the relevant stakeholders in the tourism and travel sector.⁶⁸

Regulation No. 06/07-UEAC-082-CM-15 of 19 March 2007 lays down the air carrier liability regime in the event of a violation of passenger boarding rules in the

⁶⁰ The supervisory role of the Central African Banking Commission consists in checking the conformity of regulated institutions' business practices; checking the conformity of contracts, products and services; checking regulated institutions' handling of consumer complaints; and checking regulated institutions' compliance with ethical rules. The Commission also has powers of investigation, allowing it to inspect documents and conduct on-site visits in relation to consumer protection.

⁶¹ Regulation No. 01/20/CEMAC/UMAC/COBAC, art. 44.

⁶² *Ibid.*, arts. 49 and 50.

⁶³ Regulation No. 04/19 CEMAC/UMAC/CM of 10 August 2020 on annual percentage rates, the prevention of usury and the publication of banking terms and conditions in CEMAC.

⁶⁴ *Ibid.*, art. 7.

⁶⁵ *Ibid.*, art. 11.

⁶⁶ Comité National Économique et Financier (CNEF).

⁶⁷ Regulation No. 04/19 CEMAC/UMAC/CM, art. 13.

⁶⁸ United Nations guidelines, para. 78.

airports of CEMAC member States. The regulation covers three scenarios: denial of boarding on a booked scheduled flight; occurrence of a long delay; and cancellation of the flight by the airline. It also sets out arrangements for the compensation of passengers for damages suffered in the airports of member States.⁶⁹

Airlines are under an obligation to provide information, since article 4 of the regulation stipulates that they must provide all passengers who are denied boarding, or who are the victims of a flight cancellation or long delay, with a note explaining the financial compensation rules. The concept of a “long delay” is not defined in the regulation, although it may be presumed that it will be interpreted in the consumer’s favour. In the event of denial of boarding, passengers have the right to choose one of the following types of compensation: an immediate refund, without penalty, of the ticket price for the part of the journey not made; rerouting as soon as possible to the final destination; or rerouting on a later date at the passenger’s convenience. The regulation also provides for minimum financial compensation depending on the travel class and the number of kilometres to be travelled.⁷⁰ In the event of a flight cancellation, passengers may opt for a full refund of the ticket; rerouting to their final destination under similar conditions; or rerouting to their final destination on a date of their convenience.⁷¹

With regard to compensation for long flight delays, passengers must be provided with the assistance foreseen under article 9 of the regulation.⁷²

B. DOMESTIC LAW

The Constitution of Gabon does not provide for any general or specific laws on consumer protection. However, several laws contribute to consumer protection, with a recent bill and a number of regulations establishing the legal foundation.

⁶⁹ Regulation No. 06/07-UEAC-082-CM-15 of 19 March 2007, art. 2.

⁷⁰ *Ibid.*, art. 5.

⁷¹ *Ibid.*, art. 7.

⁷² Article 9 stipulates that, in addition to the minimum compensation provided for in article 5, passengers should be provided with a telephone call, a meal, and hotel accommodation if they are stranded for one or more nights.

1. Consumer protection bill

Gabon does not yet have a specific consumer protection law. However, there is a bill which, although it has not yet been subjected to review, will certainly serve as a basis for future work, being in line with the CEMAC directive on consumer protection.⁷³

In this regard, two points need to be made. One concerns the scope of the bill, in terms of the applicable law and the thematic areas concerned. The other relates to the institutional framework for the handling of complaints and the imposition of penalties.

The scope of the bill is fairly broad. If it were to be adopted without amendment, the law would apply to all transactions relating to the supply, distribution, sale, exchange and use of goods or services between consumers and professionals or economic operators. This includes electronic transactions when the economic operator or consumer is resident in Gabon, when the communication concerns both goods and services, when a contract is offered to or accepted by a party in Gabon, and when the business practice is carried out or received in Gabon.⁷⁴ This expansion of the material and territorial scope is welcome, as a wider range of consumers is likely to be protected. The bill covers transactions in many sectors, including health, pharmaceuticals (including traditional medicines), food, household appliances, cars, water, energy, housing, education, financial and banking services, insurance, transport, tourism, telecommunications, electronic communication services and other market services.⁷⁵

⁷³ Article 1 of the bill, regarding its object and scope, states that it is adopted pursuant to article 47 of the Constitution and in conformity with Directive No. 02/19-UEAC-639-CM-33 of 8 April 2019 harmonizing consumer protection within CEMAC and that it will establish the general framework of the consumer protection regime. Its purposes are:

- To protect and defend consumers’ interests against harmful clauses in consumer contracts;
- To ensure that clear and appropriate information is provided to consumers about the goods and services that they purchase or use;
- To ensure the conformity of goods and services and the safety of consumers in accordance with the required standards;
- To establish the conditions and procedures in relation to compensation for harm or damages suffered by consumers; and
- To allow consumers to be represented by approved associations, in accordance with the regulations in force.

⁷⁴ Consumer protection bill, art. 2 (1).

⁷⁵ *Ibid.*, art. 2 (2).

From an institutional perspective, DGCCRF will continue to have the right to handle and investigate complaints, resolve disputes and impose penalties. Once a complaint has been processed, DGCCRF can order all measures to put an end to the problem and can impose administrative or financial penalties on unscrupulous traders. It also has the right to negotiate with economic operators to find amicable solutions to disputes, with victims receiving compensation.

As far as dispute settlement is concerned, the bill identifies persons who are entitled to take legal action, and sets out procedural rules for settling disputes under article 148 ff.

Thus, article 148 stipulates that “the Directorate General of Competition and Consumer Affairs and approved consumer associations shall have the authority to take measures to facilitate access for individual consumers to the courts responsible for consumer dispute settlement”.

Paragraph 2 of the same article specifies that these measures may include:

- Setting up courts or special chambers in existing courts devoted exclusively to consumer dispute settlement;
- Drawing up simplified procedural rules for dispute settlement where the financial stakes are below a maximum amount;
- Making it free of charge for consumers or approved consumer associations to bring legal actions;
- Establishing the conditions for the legal representation of consumers.

If the bill were to be enacted as it stands, and then implemented, it would represent a major, relevant and very timely innovation, since, on the one hand, Gabonese legislation would recognize, for the first time, the right of approved associations to act in defence of the collective interests of consumers; and, on the other, it could lead to the faster processing of consumer disputes through simplified procedures before special chambers. Better still, by resolving to follow the principle of free access to justice for the settlement of consumer disputes, the pro-consumer principle would be enshrined.

The bill would also require the Directorate General of Competition and Consumer Affairs and economic operators to put in place structures or procedures based on conciliation, mediation or arbitration in order to offer consumers a non-judicial means of settling individual consumer disputes.⁷⁶

Article 150, meanwhile, would empower DGCCRF and approved consumer associations to take action before the competent courts, with a view to:

- Having the judge issue an emergency injunction to prevent, halt or remedy a breach of the law;
- Obtaining compensation for harm caused to a number of consumers, whether identifiable or not, whose losses have a common origin in a breach of the law;
- Obtaining compensation for harm caused to the collective interest of consumers.

With regard to penalties, the bill states that DGCCRF and approved consumer associations will be authorized to join any public proceedings aimed at enforcing the criminal penalties foreseen in the event of an infringement.

This is an important rule, since empowering other bodies to join criminal proceedings could bypass the difficulties faced by DGCCRF in referring cases to public prosecutors' offices with a view to having criminal penalties imposed on economic operators.

The bill provides for administrative, criminal and civil sanctions.

In particular, it contains a catalogue of typical administrative sanctions, which can be applied according to the nature of the infringement. They include:

- A notice
- A warning
- An administrative fine
- A reminder of the regulations
- An order to cease and desist
- Withdrawal of a product

⁷⁶ Ibid., art. 149.

- Recall or bringing into conformity of a dangerous product
- An order to inform the consumer or the public
- Withdrawal of an authorization, permit or licence

The criminal sanctions set forth in the bill have evolved from those foreseen in previous laws, having been adapted to the current economic context.

The bill stipulates that criminal penalties will include, in addition to imprisonment and fines, the confiscation of illicit profits made as a result of the infringement.⁷⁷

The transposition of Directive No. 02/19-UEAC-639-CM-33 of 8 April 2019 should be expedited by the adoption of a framework law or consumer protection act, based on the CEMAC Directive, the United Nations guidelines and international best practices adapted to the economic, cultural and political context of Gabon.

2. Domestic laws contributing to consumer protection

Gabon has various other laws that contribute to consumer protection in some way. These include laws on consumer information and education, quality control and product safety, price regulation, electronic transactions and privacy protection, inventory regulation, financial inclusion and direct consumer credit operations, and dispute resolution and redress.

(a) Consumer information and education

Two of the legitimate needs of consumers, as recognized in the United Nations Guidelines for Consumer Protection,⁷⁸ are to have access to adequate information to enable them to make informed choices according to their needs and wishes, and to receive education, particularly on the economic, social and environmental consequences of consumer choice. Public authorities and businesses alike are obliged to promote and respect these needs. In Gabon, the issue of consumer information and education is not governed by any specific law.

To determine the extent of the right to information of Gabonese consumers, it is necessary to refer to general laws. Thus, the Civil Code deals broadly with

consumer protection in that it governs certain rights and enshrines the obligation of fairness and good faith in the performance of contracts.

Article 10 of Ordinance No. 50/78 of 21 August 1978 on the quality control of food products and foodstuffs and fraud prevention sets out certain arrangements for the provision of information to consumers.⁷⁹

Circular No. 004130/MEPPDD/SG/DGCC/DCN of 27 November 2017 also sets out rules on the provision of information to consumers, in accordance with the Directive harmonizing consumer protection within CEMAC. The first rule laid down in the circular is the obligation to use the French language for the description, offer and presentation of goods, products and services and in advertisements intended for the public in Gabon. Consumers and users should be provided with information on the quality and price of goods and services in a language that they can readily understand, so that they can use materials advisedly, ensuring their own safety and that of those around them; instructions for use should also be provided.⁸⁰ Consumers should also receive a purchase order, a delivery note and a guarantee certificate. The circular further requires operators to provide consumers with a receipt or sales slip.⁸¹ Finally, the circular prohibits the placement on the market of products whose labelling and operating instructions are not in French. It does not specify at what point in the transaction the necessary information must be transmitted.

(b) Quality control and product safety

Ordinance No. 50/78 of 21 August 1978⁸² concerns the quality control of food products, foodstuffs and by-products of animal origin. Article 1 specifies that one of the purposes of the ordinance is to protect

⁷⁹ The ordinance specifies that when one or more additives are authorized by the regulations, the food label must state:
The amount of each additive present in the food;
A full list of all additives present in the food in decreasing order of their amount;
Directions for use which, if followed, should produce a food in which none of the said additives exceeds the maximum tolerance limit prescribed by the regulations.

⁸⁰ The circular gives the examples of labels, catalogues, brochures and leaflets.

⁸¹ The circular goes even further, requiring catering businesses to provide menus and wine lists.

⁸² Ordinance No. 50/78 of 21 August 1978 on the quality control of food products and foodstuffs and fraud prevention.

⁷⁷ Ibid., art. 154.

⁷⁸ United Nations guidelines, para. 5.

consumers. The ordinance applies to both goods and services.⁸³

The ordinance prohibits any misleading of consumers as to the essential qualities, composition and useful content of goods and the type, origin, quality and identity of items delivered.⁸⁴ It also prohibits the adulteration or attempted adulteration of foodstuffs for human or animal consumption, medicinal substances and beverages; and the sale or offering for sale of agricultural products, food products or foodstuffs that are harmful to health, food that has passed its use-by date, adulterated food products or agricultural products and products manufactured in unhygienic conditions.⁸⁵ Furthermore, the Ordinance prohibits the holding for sale, offering for sale and sale of food products whose packaging does not meet the requirements defined by the applicable laws;⁸⁶ the sale of colourings, flavourings, starches and salts; and the import, advertising and sale of foods supplemented by one or more vitamins without regard for the applicable laws.⁸⁷

Article 28 of the ordinance requires compliance with international standards in the following terms: "Where there is no national standard, the international standard recommended and published by the Codex Alimentarius Commission, and accepted by the Gabonese Government, shall apply."

DGCCRF has a quality control body and participates in the development of food safety standards, in cooperation with other bodies such as the Gabonese Food Safety Agency (AGASA) and the Gabonese Standardization Agency (AGANOR). The activities of these bodies are described below.

In Gabon, product safety issues also arise in non-food areas, including that of traditional medicines, and especially in the informal sector.

It is therefore important to raise consumer awareness of the health and safety risks associated with these products, particularly traditional medicines.

At the same time, mechanisms to warn consumers about dangerous or potentially unsafe products should be set up or strengthened, in the framework

⁸³ Ibid., art. 3.

⁸⁴ Ibid., art. 4.

⁸⁵ Ibid., art. 5.

⁸⁶ Ibid., art. 7.

⁸⁷ Ibid., arts. 12–18.

of market surveillance, with extensive cooperation between consumer protection institutions and the customs authorities.

In the context of the authorities' efforts to promote quality control and product safety, the Ministry of Trade and Industry, acting with the support of small and medium-sized enterprises, issued Order No. 000023/MCIPMEARSPP/SG/DGCN of 2 February 1995 regulating the activities of the quality control laboratory of the Directorate General for Consumer Affairs.⁸⁸ Article 1 of the order states that its purpose is to promote product quality on the one hand, and to improve food safety on the other. The scope of the order is extremely broad, since it applies throughout the country to all wholesalers, retailers, importers, exporters, producers, processors, manufacturers, carriers and even receivers of foodstuffs. The order stipulates that laboratory officers may enter, at any time during working hours, any place where they have reason to believe that regulated foodstuffs are stored, prepared or sold.⁸⁹ The laboratory makes use of international official methods.⁹⁰

Those responsible for non-compliance with the order's provisions on labelling and public health standards are liable to judicial and financial penalties. They are also liable to incur administrative sanctions such as the closure of establishments and the seizure, sequestration or destruction of products not bearing the required information or posing a serious risk to the health of consumers.⁹¹

There is no scientific research and development centre attached to the laboratory. It would be advisable to strengthen the laboratory by establishing such a centre, which would be devoted to multidisciplinary research in areas related to consumer interests.

⁸⁸ The order regulating the activities of the quality control laboratory entered into force before the merger of 2004. The functions of the laboratory, which has been upgraded to the status of directorate, are now defined in the new decree on the establishment, remit and organization of DGCCRF.

⁸⁹ Order No. 000023/MCIPMEARSPP/SG/DGCN of 2 February 1995, art. 6 (2).

⁹⁰ Ibid., art. 10. Article 13 specifies that until national standards are in place, imported foodstuffs are subject to the international standards in force.

⁹¹ Order No. 000023/MCIPMEARSPP/SG/DGCN, arts. 4 and 5.

(c) Price system

Prices and trade have been liberalized under Act No. 14/98 of 23 July 1998 on the competition regime. This Act followed Act No. 5/89 of 6 July 1989, the Competition Act, which had started the process of liberalizing the economy.

The price system had previously been governed by the 1963 Prices Act.⁹²

Prices of certain products, such as bread, sugar, pharmaceutical products, textbooks and even petroleum products, continue to be determined by specific regulations.⁹³ Similarly, the prices of certain services may be fixed by approval or official order.⁹⁴

The Act imposes an obligation to inform the consumer, since it requires vendors to issue an invoice, which must mention, among other things, the unit price and quantity of the goods or the price of the service rendered. Articles 27 and 28 of the Act provide a definition of illicit pricing practices. The Act sets out the procedures and penalties that will be applied to operators who infringe the rules.

(d) Electronic transactions and the protection of privacy and personal data

The 2021 Electronic Transactions Act is the country's first law governing electronic transactions and the protection of privacy.⁹⁵ According to article 2, the Act applies to all electronic transactions, including information society services; activities of a non-economic nature, carried out remotely and by electronic means, relating to goods, services, rights or obligations; activities carried out remotely and by electronic means, relating to goods, services, rights or obligations, when they involve persons acting for purposes unrelated to their commercial, industrial, trade or professional activities; the digitalization of administrative and judicial procedures; and the online publication of information by the State, local authorities and any public or private legal entities responsible for

running a public service. Some activities are formally excluded from the scope of the Act.⁹⁶

Article 17 of the Act stipulates that providers of public communication services must hold and store, in accordance with the Personal Data Protection Act, data enabling the identification of anyone who has contributed to the creation of the content of these services. However, the Act does not define the precise nature of such data.⁹⁷

Title II of the Act deals with the important issue of e-commerce.

In this regard, guideline 63 of the United Nations guidelines recommends that Member States should “work towards enhancing consumer confidence in electronic commerce by the continued development of transparent and effective consumer protection policies, ensuring a level of protection that is not less than that afforded in other forms of commerce”.⁹⁸

In response to this recommendation, Gabon has established the legal regime for e-commerce under the Electronic Transactions Act. Under the material scope of the Act, any natural or legal person who produces, distributes, markets, sells or delivers goods and services by electronic means is an operator participating in e-commerce. E-commerce also covers services for the provision of online information on commercial communications, data search, access and retrieval tools, access to an information communication or hosting network, purchasing, selling, distribution and direct selling.⁹⁹

Under the terms of the Act, operators are bound by a set of obligations linked to the conclusion and performance of electronic contracts. Service providers are under an obligation to provide information. In

⁹² Act No. 29/63 of 15 June 1963.

⁹³ *Ibid.*, art. 7.

⁹⁴ These are services provided by practitioners of certain regulated professions, including but not limited to architects, hairdressers, insurers, transport and construction companies, doctors, real-estate owners and freight forwarders.

⁹⁵ Act No. 025/2021 of 28 December 2021 on electronic transactions.

⁹⁶ Under article 3 of the Act, these are gambling, including lotteries and betting transactions, even if legally authorized; activities related to the exercise of certain professions insofar as they entail direct and specific participation in the exercise of public authority; and activities related to security matters.

⁹⁷ Article 17 (2) nonetheless specifies that the data mentioned in article 17 (1) and the duration and means of their storage are defined in a regulation adopted pursuant to the reasoned opinion of the National Commission for the Protection of Personal Data.

⁹⁸ It should be pointed out that guideline 65 proposes that States adapt relevant international guidelines and standards on international commerce to their particular economic, social and environmental circumstances so that they can adhere to them and work with other countries to implement them across borders.

⁹⁹ Act No. 29/63 of 15 June 1963, art. 26.

particular, they must provide recipients of services with the following information before an order is placed electronically: the different stages to follow to conclude the contract; whether or not the concluded contract will be archived and accessible to the consumer; how it will be archived and how it can be accessed; the technical means for identifying and correcting input errors prior to the placing of the order; the languages offered for the conclusion of the contract; and any codes of conduct that may apply and how such codes can be consulted electronically.¹⁰⁰

Section 3 of title II deals with contracts concluded between professionals and consumers. Under article 55 of the Act, professionals must provide consumers of goods or services with sufficient information, including on the guarantee of the protection of their personal data and privacy, before the consumer places an order electronically.

Article 56 of the Act affords a further guarantee for the consumer, as the professional must send him or her confirmation of the concluded contract before the performance of a service contract.¹⁰¹

In addition, after concluding a distance contract, consumers have a 14-day right of withdrawal without having to give reasons for their decision or bear any costs other than the direct cost of returning the goods.¹⁰²

The Act also contains provisions on electronic evidence, including in respect of electronic signatures, electronic registered mail and electronic certification and filing. Electronic documents are admitted as evidence in the same way as their paper equivalents and have the same probative force.¹⁰³

Article 119 states that all exchanges of information, documents or administrative acts may be done electronically, except where such exchanges would constitute a breach of personal data or privacy.

In the light of the Act, businesses must devise technical mechanisms for the proper collection and use of these data. As things stand, in practice, the problem is not so much the collection of data as their use.

By making personal data protection the cornerstone of its rules on electronic transactions, Gabon has resolved the problem of the legislative deficit in this area, although efforts are still needed at the operational level to make the rules effective and to move closer to international standards in the field. These rules, while open to improvement, do contribute to protecting privacy.

Nevertheless, the Act is inadequate because the set of rules it contains remains incomplete. For example, it does not distinguish between data that are sensitive and those that are less so. Nor does it make any provision for institutional cooperation. Consequently, it is necessary to strengthen the protection of personal data and cooperation between DGCCRF and the National Commission for the Protection of Personal Data.

(e) Inventory regulation and manufactured goods guarantees

The requirements to establish safety stocks and to submit plan to deal with drug shortages constitute a significant preventive shield. Solving the product stock equation, although possible, is no easy task, as Gabon is essentially an importer in this area.

Act No. 1/77, the Inventory Act, organizes the sale of products on the Gabonese market.¹⁰⁴ The Act places particular emphasis on pharmaceutical products and car dealerships. With regard to the pharmacy sector, the Act states that: "Pharmacists established in Gabon are required to maintain sufficient stocks of medicines and to declare them monthly to the Ministry of Health and the Ministry of Economic Affairs and Trade."¹⁰⁵

The law requires all natural or legal persons authorized to exercise the profession of car dealer or brand representative or distributor of electrical household appliances, refrigeration equipment or radio and television equipment to set up their own garage or storage, maintenance and repair facility in order to provide an after-sales service. They are also required to hold a minimum stock of replacement parts for normal

¹⁰⁰ Ibid., art. 49.

¹⁰¹ This confirmation must include all the information referred to in article 55.

¹⁰² Article 57 of the Act states that the consumer has a period of 14 calendar days. For service contracts, the deadline is counted from the date on which the contract is concluded; for goods contracts, it is counted from the date of delivery.

¹⁰³ In simple terms, the Act specifies that, for an electronic document to be admitted as evidence, it must be possible to duly identify the person from whom it originates, and it must be drawn up and stored in such conditions as to ensure its integrity.

¹⁰⁴ Act No. 1/77, art. 1.

¹⁰⁵ Ibid., art. 5.

wear and tear, equal to the average number sold over the previous three months. These requirements are an indirect method of consumer protection.

(f) Financial inclusion and direct consumer credit operations

Gabon has adopted a National Financial Inclusion Strategy, prepared by the Ministry of Economic Affairs and Recovery, for the period 2022–2027. The overall vision of the strategy is one of “increased access to financial services and products for the population, particularly women, young people, very small, small and medium-sized enterprises and informal sector actors ... the aim being to enable better adaptation and broad coverage, including in rural areas”.¹⁰⁶

It would therefore be advisable for the Central Bank, the financial services regulator and DGCCRF to join forces to take account of the credit needs of different groups and to build transparency into the rules and the process of examining credit applications.

One of the objectives set out in the strategy is to leverage digital finance to boost the financial inclusion rate from 59 per cent to 80 per cent by 2027. The role of consumer protection in the digital strategy of Gabon should also be strengthened.

Order No. 14/MPEAT of 22 May 1992, as amended by Order No. 9/MEFBP/DGPEE of 10 May 2002, provides for consumer protection in the area of direct consumer credit operations. Under article 1 of the order, this protection extends to all consumer credit transactions granted by legal persons on a regular basis, whether free of charge or for a fee. The article applies in particular to credit transactions linked to sales or to the provision of services.

Article 2, which protects consumers’ right to information, stipulates that all advertising relating to the credit operations described under article 1, regardless of the medium, must specify the identity of the lender, the nature, purpose and duration of the operation, the total cost and the annual percentage rate of the loan and any flat-rate charges. Article 3 stipulates that credit operations must be concluded under the terms of a preliminary offer, presented in duplicate to the borrower. Once the offer has been presented, the lender is obliged to maintain the

conditions specified therein for a minimum period of 15 days. The annual percentage rate must not exceed the maximum lending rate set by the Bank of Central African States.¹⁰⁷ Any person who engages in direct consumer credit transactions must have the terms and conditions approved by the Directorate General of Prices and Economic Surveys (now the Directorate General for Competition, Consumer Affairs and Fraud Prevention).

Notwithstanding the above, the rules provide insufficient protection for consumers in the credit market, considering that consumer associations regularly complain about the difficulty of obtaining credit – a process which, in their view, is rigid and lacks transparency.

(g) Dispute resolution and redress

Guideline 37 of the United Nations guidelines urges Member States to: “... encourage the development of fair, effective, transparent and impartial mechanisms to address consumer complaints through administrative, judicial and alternative dispute resolution, including for cross-border cases. Member States should establish or maintain legal and/or administrative measures to enable consumers or, as appropriate, relevant organizations to obtain redress through formal or informal procedures that are expeditious, fair, transparent, inexpensive and accessible. Such procedures should take particular account of the needs of vulnerable and disadvantaged consumers. Member States should provide consumers with access to remedies that do not impose a cost, delay or undue burden on the economic value at stake and at the same time do not impose excessive or undue burdens on society and businesses.”

Guideline 38 recommends that Member States should “encourage all businesses to resolve consumer disputes in an expeditious, fair, transparent, inexpensive, accessible and informal manner, and to establish voluntary mechanisms, including advisory services and informal complaints procedures, which can provide assistance to consumers”.

In Gabon, consumer disputes can be resolved in several ways, including amicably or through the courts.¹⁰⁸ Consumer disputes need to be dealt with

¹⁰⁶ Ministry of Economic Affairs and Recovery, National Financial Inclusion Strategy 2022–2027, p. 2.

¹⁰⁷ BEAC.

¹⁰⁸ There are three alternative dispute resolution methods:
- Conciliation, in which the parties decide the outcome;

swiftly and appropriately, ensuring easy access to dispute settlement mechanisms and equality of arms between the professional and the consumer. DGCCRF is competent to handle complaints and to order corrective measures through administrative procedures. Dispute settlement options include amicable and negotiated solutions.

Gabon has not yet defined any special procedures in this area. Dispute settlement through the courts is certainly possible but, in reality, the applicable ordinary law does not encourage the judicial route, for at least three reasons:

- The high costs to the consumer, which sometimes exceed the value of the goods or services involved;
- The slow processing of cases by the competent courts;
- The technical complexity of judicial language and problems of corruption.¹⁰⁹

To address this difficulty, most sectoral regulators have set up alternative dispute settlement mechanisms, notably conciliation and mediation mechanisms, although there are no reports on their effectiveness.

In addition, disputes are often referred to the oversight departments of DGCCRF, which resolve them as best they can; however, they are unable to rule on crucial points such as compensation for the victims of infringements of consumer protection rules.

The establishment of courts or specialized chambers, or even of judicial conciliation or mediation bodies, would

help to improve the handling of consumer disputes. Such bodies could apply simplified procedures. It would also be worth involving consumer associations in the official handling of consumer disputes, as is the case in Morocco, for example.¹¹⁰

In this context, it would be advisable to strengthen consumer protection by expanding legal aid. However, such aid is not, in principle, tied to a person's status as a consumer, but rather to his or her income, which puts certain consumers at a disadvantage if their income exceeds the threshold set by a decree of 2012.¹¹¹

Aside from provisions on legal aid, the future consumer protection law should introduce a class action mechanism in consumer affairs, as envisaged in the GEMAC Directive. Such a mechanism would enable a number of people who have suffered losses to apply for compensation through a procedure or legal action brought against a business or public institution.

Therefore, provision should be made for the possibility of collective legal action by consumer associations, which is currently not envisaged under the applicable Gabonese laws.¹¹²

All of the above points to a patchwork of regulations, which makes the legislative framework difficult to fathom. Therefore, the legislative framework on consumer protection should be streamlined by harmonizing the various laws and by enshrining the pro-consumer principle – in other words, the interpretation of laws in the consumer's favour.

- Mediation, in which a mediator helps the parties find the solution; and
- Arbitration, in which the arbitrator decides the outcome, either on the basis of rules or after recourse to the other mechanisms.

¹⁰⁹ These problems are not unique to Gabon, but affect many countries around the world, as demonstrated by the annual reports of Transparency International, which works on issues of transparency and corruption.

¹¹⁰ See the voluntary peer review of Morocco: https://unctad.org/system/files/official-document/ditccplp2018d1_en.pdf.

¹¹¹ Legal aid is granted to parties by an administrative commission, taking into account their income. Thus, in the event of a trial, the lawyer of a complainant with no income would receive legal aid in the amount of 500,000 CFA francs. The higher the beneficiary's income, the lower the amount of legal aid provided.

¹¹² The consumer protection bill provides for this possibility.

V. INSTITUTIONAL FRAMEWORK

The Ministry of Economic Affairs and Recovery is primarily responsible for designing and implementing public policies in the field of consumer protection.¹¹³ However, other ministries also have the power to take on this task, and oversee specialized bodies, or regulatory bodies, that have specific, well-defined competencies in the field of consumer protection. The Ministry of Consumer Affairs includes a department responsible for monitoring and sanctioning practices that are contrary to consumer protection rules. Officials – often sworn officers – carry out field missions, either alone or in collaboration with experts in the sector concerned (engineers, senior technicians) and, where necessary, with the support of the State's security services.

Does this proliferation of consumer protection agencies benefit consumers? Even if the answer is yes, a lack of government coordination could lead to a weakening of this protection. This is why the CEMAC Directive recommends concentrating the defence of consumer interests in a single, clearly identified administrative entity.

In Gabon, while consumer protection is primarily the responsibility of certain government departments and public institutions, private organizations are also involved in the provision of this public service.

A. PUBLIC INSTITUTIONS IN CHARGE OF CONSUMER PROTECTION

The public institution in charge of consumer protection is the Directorate General for Competition, Consumer Affairs and Fraud Prevention, which is currently under the authority of the Ministry of Economic Affairs and Recovery. Ministries responsible for transport, agriculture and the environment also play a role in consumer protection in Gabon, as do sectoral regulatory bodies in the fields of food safety, electronic

communications and postal services, drinking water, electricity and standardization.

1. Directorate General for Competition, Consumer Affairs and Fraud Prevention

Decree No. 00253/PR/MER of 29 September 2022 on the establishment, remit and organization of the Directorate General for Competition, Consumer Affairs and Fraud Prevention¹¹⁴ supplements the 2004 Decree.¹¹⁵ The duties assigned to this administrative body in the area of consumer affairs are set out there.

To strengthen consumer protection, DGCCRF has reorganized and streamlined its different departments. The Consumer Affairs Directorate now has three dedicated departments, for consumer protection, consumer safety, and risk monitoring and prevention.¹¹⁶

The Department for Consumer Protection is responsible, among other things, for protecting the economic interests of consumers, verifying unfair terms in commercial transactions, checking the truthfulness of advertisements, processing files relating to agreements and leases, investigating unfair contractual terms, monitoring advertising, handling consumer complaints relating to different aspects of economic interests, and assisting and supporting consumer associations.¹¹⁷

The Department for Consumer Safety is mainly concerned with implementing policy on the safety of products, consumer goods and services, and carrying out preventive and remedial campaigns in this field, in collaboration with other relevant departments.¹¹⁸

The Department for Risk Monitoring and Prevention, which is the subject of article 45 of the Decree, is tasked with conducting all studies aimed at avoiding the need for alerts, in collaboration with the other relevant services; managing food and non-food crises, in collaboration with the other relevant services and warning systems at the national, Community and

¹¹³ Originally, the Ministry of Economic Affairs also included the Department of Finance. It would be advisable to entrust consumer protection to an entity with substantial budgetary capacities. It could be entrusted to the Civil Service, but will more likely be entrusted to the Ministry of Consumer Affairs and Cost of Living, established by decree in January 2023.

¹¹⁴ Decree No. 00253/PR/MER, art. 3.

¹¹⁵ Decree no. 665/PR/MEFBP of 9 August 2004 on the establishment, remit and organization of the Directorate General of Competition and Consumer Affairs.

¹¹⁶ Decree No. 00253/PR/MER, art. 42.

¹¹⁷ Ibid., art. 43.

¹¹⁸ Ibid., art. 44.

international levels; and carrying out all oversight and prevention activities relating to consumer protection.

It should be noted that DGCCRF also has a quality control laboratory accredited under ISO/IEC 17025:2017, which sets out the general standards to be met by testing and calibration laboratories. The laboratory is a genuine aid to decision-making, providing analyses, expert appraisals, second opinions and tests with regard to product quality and safety.

It is evident from both the letter and spirit of Decree No. 00253 of 29 September 2022 that there is a desire for cooperation between DGCCRF and other consumer protection bodies in order to address the problem of overlapping remits, which has been observed both at the institutional and operational levels. To avoid this overlapping, it would be advisable to draw up a competency matrix to clearly specify the scope of intervention and boundaries of each department. It is now up to the Government to appoint a focal point to officially coordinate the actions of the various bodies.

In view of the above, and given the institution's expertise and experience, it would be advisable to designate DGCCRF as the focal point for consumer protection issues in Gabon.

2. Other government departments contributing to consumer protection

Several ministries, by the very nature of their work, contribute to the protection and defence of consumer interests in Gabon. These include the Ministry of Health and Social Affairs, which is responsible for drawing up and ensuring compliance with standards for the quality of care, medicines and medical devices, health-care infrastructure and equipment, as well as for the organization, development and technical oversight of public and private health services and facilities.

The Ministry of Transport, for its part, draws up and implements regulations on the transport of goods and people by land, air and sea. It ensures passenger safety and compliance with competition rules in the field of transport.

The Ministry of Agriculture ensures that agricultural produce is sufficient, of satisfactory quality and safe for consumers.

The role of the Ministry of the Environment is to ensure the sustainable management of natural resources, which are by nature limited, and to promote sustainable consumption. This involves implementing policies to combat pollution, ongoing environmental degradation and the illicit exploitation of natural resources.

Alongside these government departments with general consumer protection powers in their respective fields, there are institutions specifically dedicated to consumer protection in Gabon.

3. Regulatory bodies dedicated to consumer protection

In addition to DGCCRF (which reports to the Ministry of Economic Affairs and Recovery) and the ministries directly concerned, there are some regulatory bodies working in specific areas of consumer protection, which report to other ministries. The best-known regulatory agencies in Gabon are the Gabonese Food Safety Agency (agriculture), the Regulatory Agency for Electronic Communications and Postal Services (telecommunications) and the Regulatory Agency for the Drinking Water and Electricity Sectors. The Gabonese Standardization Agency also plays a part in consumer protection.

(a) Gabonese Food Safety Agency

The Gabonese Food Safety Agency,¹¹⁹ established by Decree No. 0292/PR/MAPDR of 18 February 2011, is classed as an industrial and commercial public institution. Its duties are:

- To provide scientific and technical advice and assistance in all areas that affect food safety;
- To protect the health and interests of consumers while ensuring the smooth functioning of the internal market;
- To ensure the accumulation of reserve stocks;
- To ensure proper management of supplies and reserve stocks;
- To propose strategies to be implemented in conjunction with other ministerial departments involved in ensuring full coverage of food needs;

¹¹⁹ Agence Gabonaise de Sécurité Alimentaire (AGASA).

- To provide consumers with information on, in particular, prices and the wholesomeness and nutritional quality of food;
- To identify and define potential risks;
- To liaise with other agencies and similar food safety and security bodies.¹²⁰

(b) Regulatory Agency for Electronic Communications and Postal Services

The Regulatory Agency for Electronic Communications and Postal Services, which reports to the Ministry of the Digital Economy, was established by Decree No. 01106/PR/MCEN. The Agency is an independent administrative body established by the merger of the Regulatory Agency for Telecommunications and the Regulatory Agency for Postal Services.¹²¹ It is responsible for preparing studies and draft legislation relating to the electronic communications and postal sectors; ensuring that operators comply with the provisions of licences, authorizations, approvals and specifications; sanctioning those who fail to comply, or having them sanctioned; and protecting consumers in an equitable manner.¹²²

(c) Regulatory Agency for the Drinking Water and Electricity Sectors

The Regulatory Agency for the Drinking Water and Electricity Sectors,¹²³ an independent administrative authority, was established by ordinance of 25 February 2010.¹²⁴ Under article 6 of the ordinance, the Agency has been assigned numerous tasks, some of which directly or indirectly contribute to consumer protection.

It must ensure the quality of drinking water and electricity services, protect the legitimate interests of users, ensure continuity of service and protect the general interest. It must also set up mechanisms for consultations with users and operators, as provided for in the legislative and regulatory texts in force,

¹²⁰ Decree No. 0292/PR/MAPDR of 18 February 2011, art. 3.

¹²¹ Decree No. 01106/PR/MCEN on the establishment, remit and organization of the Regulatory Agency for Electronic Communications and Postal Services, arts. 3, 4 and 8.

¹²² *Ibid.*, art. 7.

¹²³ Agence de Régulation du Secteur de l'Eau Potable et de l'Energie Électrique (ARSEE).

¹²⁴ Ordinance No. 019/PR/2010 of 25 February 2010 on the establishment, remit, organization and operation of the Regulatory Agency for the Drinking Water and Electricity Sectors, art. 2.

grant operating licences and authorizations, award concessions, suspend or withdraw operating licences and authorizations in the event of serious breaches of their conditions, particularly when the quality and continuity of supplies are permanently compromised, and impose any other sanctions set out in the regulations. In the exercise of its mandate, the Agency has the broadest possible powers of investigation. Accordingly, operators may not challenge the confidentiality of its work.¹²⁵

(d) Gabonese Standardization Agency

The Gabonese Standardization Agency, a public administrative body established by decree of 23 June 2014,¹²⁶ is a vital link in the preventive strategy for consumer protection.¹²⁷ Its mission includes implementing government policy in the areas of standardization, compliance assessment and metrology.¹²⁸

It would be desirable for this agency to draw up an annual report on the promotion of and compliance with standards, as well as on the quality of products and services offered by operators. It would thus be beneficial to strengthen and promote certification and standardization mechanisms.

If public institutions are the main players dedicated to consumer protection, it is because they are also responsible for enforcing the sanctions provided for in the current legislation. In this respect, operators who contravene protection rules are liable to three types of penalty:

- Civil penalties in the form of financial compensation;
- Administrative penalties – a warning, a fine, an order to cease and desist, a demand for product compliance, product withdrawal, closure of the establishment;
- Criminal penalties – fines, imprisonment, confiscation of illicit profits, closure of the establishment.

¹²⁵ *Ibid.*, art. 7.

¹²⁶ <https://aganorgabon.com/> (accessed on 11 January 2023).

¹²⁷ Decree No. 0227 of 23 June 2014 on the establishment and organization of the Gabonese Standardization Agency (AGANOR).

¹²⁸ *Ibid.*, art. 2.

It would also be a good idea to strengthen the framework for interministerial dialogue and coordination, so as to ensure smooth cooperation between all departments with an interest in consumer protection, particularly DGCCRF and the technical regulatory bodies.

The administrative bodies provided for in CEMAC Directive No. 2 of 2019 on consumer protection should also be put in place to facilitate dialogue between the State, civil society and the private sector, with a view to better protecting consumer interests: a national consumer council, a consumer safety commission (covering products, private services and public services) and an unfair terms commission (comprising public authorities, consumer associations and professionals).

4. The judicial system

Gabonese consumers can take legal action, but none have done so as yet. The traditional adversarial judicial system should evolve to take account of the particularities of consumer disputes, once Gabon has passed a specific law on consumer protection. Two points need to be made. Firstly, consumer protection law is based on the assumption that there is an imbalance favouring companies over consumers. In view of the asymmetry of information and bargaining power between consumers and companies, it would be justified to supplement traditional civil court procedures with special procedures to create a level playing field to enable consumers to defend their rights. Secondly, legal proceedings can be a major obstacle for consumers: the costs involved discourage them from taking ordinary legal action, particularly if they risk having to pay costs. Similarly, the length of the proceedings, their complexity and that of the legislation, the cost of legal representation and, generally speaking, the low economic value of their claims, all represent further obstacles.

The civil and criminal courts have a major role to play in establishing solid case law in consumer protection. As far as monitoring mechanisms are concerned, it is important to promote a priori monitoring mechanisms that would help prevent consumer disputes. This is the case, for example, in Gabon, where the telecommunications regulator studies operators' offers.

This does not mean that ordinary procedures cannot be activated as a subsidiary measure, should the

amicable procedure fail. In this case, the establishment of specialized courts would be an appropriate solution, to adapt justice to the needs of consumers.

During meetings organized with stakeholders for the drafting of this report, it was noted that the judiciary knew little about existing consumer protection legislation. It would therefore be advisable to raise awareness among members of the judiciary and build the capacity of judges in respect of consumer protection issues.

B. PRIVATE AND SEMI-PUBLIC INSTITUTIONS

An essential component of any consumer protection policy is to promote the participation of private institutions, including consumer associations, businesses and the media. At present, only consumer associations and the media play an active role in promoting and protecting consumer rights. Businesses have not yet committed to complying with consumer protection measures, as recommended by the United Nations guidelines.

1. Consumer associations

Consumer associations and groups play a vital role in implementing consumer protection policy. Among other things, they can:

- a. Represent consumer interests in discussions with public authorities;
- b. Examine and make recommendations on the legislative and regulatory provisions applicable to consumer protection;
- c. Collect and process consumer complaints;
- d. Offer legal advice and assistance to consumers involved in litigation;
- e. Inform, educate and sensitize consumers;
- f. Review current market practices;
- g. Analyse the provisions in contracts offered to consumers;
- h. Carry out comparative analyses or tests on products and services brought to market;

- i. Carry out studies and research into consumer behaviour, needs and expectations.

On the one hand, an association must have the capacity to act preventively to find amicable solutions and, on the other, it must have the legal status enabling it, for example, to represent the private or collective interests of consumers before the courts or public or private bodies. It has now been established that a sufficiently representative and organized group of people can make a powerful contribution to public policy on consumer protection.

There are many consumer protection associations in Gabon. They fall into two categories: some are generalists, as they deal with all the issues that consumers may face – this is the case of SOS Consommateurs and the Gabonese Consumer Association; others are not strictly confined to consumer protection but specialize in dealing with specific issues. An example would be the Gabonese Association of Bank Users (AGUB); another would be Brainforest, which specializes in forestry-related issues and their impact on Indigenous Peoples.

These associations operate in a difficult context. On the one hand, they do not have the financial and human resources required to carry out their missions; and, on the other, they have a problem of legitimacy, as they do not always have a sufficient number of members to be recognized by the authorities. What is more, the general public is often unaware of their existence. Consumer associations are also frequently confronted with problems related to illiteracy.

Despite these difficulties, they provide assistance to consumers on a daily basis. For example, the Gabonese Association of Bank Users reports that it has organized awareness-raising and education workshops on issues facing bank customers, such as protection of their salaries, the meaning of concepts like agios, value dates and transaction dates, and the concept of usurious interest rates, when explaining, for example, the Central Bank's interest rate cuts, which are not always passed on to consumers.¹²⁹ For its

¹²⁹ The Gabonese Association of Bank Users explains that it has been confronted with the problem of forced sales via text messages on mobile banking services, or via VISA cards, whereas legislation requires the product to be adapted to the customer. The association also draws attention to an information asymmetry and the absence of a consumer culture. In the course of dealing with cases in which it had to provide assistance to users regarding bank charges, the association referred the matter to DGCCRF, which eventually

part, Brainforest draws attention to problems related to the traceability of timber exported by the economic operators in this sector, and to conflicts between the Directorate General of Water and Forests and indigenous populations.¹³⁰ The Gabonese Consumer Association (a generalist association), meanwhile, has expanded from two to six branches to cover the national territory, although this is still insufficient.¹³¹

Associations must have a statute. However, to be legitimate and effective, they must also meet certain criteria; for example, they must be independent of political parties, the State and lobbies; they must have sufficient resources to maintain their credibility; they must engage in regular capacity-building in the form of ongoing training; they must be representative; and they must have no conflicts of interest, particularly in respect of public authorities or businesses.

In view of the above, it is recommended that the professionalization of consumer associations should be pursued by: providing public funding for approved associations – such funding is essential to their consumer support activities; sharing the revenue from sanctions on operators; and sharing the proceeds and compensation awarded in connection with their consumer protection activities.

2. The media

In Gabon, the media play a fundamental role in consumer protection. Radio, television, the press and the Internet all play their part in raising awareness and educating the public. They also alert consumers to dangers linked to the use of certain types of products and services.

requested and obtained reimbursement from the operators of the bank charges that had been illegitimately levied.

¹³⁰ In relation to operating permits issued in violation of customary law, particularly in the exclusive zones of indigenous populations.

¹³¹ The Gabonese Consumer Association points out that it regularly makes representations to companies, for example when populations are faced with gas shortages, and that it organizes consumer awareness and education campaigns when it is involved in proposals for radio and television programmes. For example, it takes part in the *Conso Mag* radio show every Thursday and Friday.

3. Businesses

As regards relations between DGCCRF and businesses, there are no cooperation mechanisms in place to resolve certain recurring problems. However,

the United Nations guidelines call on businesses to play an active role in consumer protection, in particular in paragraph 11 of section IV, reproduced below.

Principles for good business practices

The principles that establish benchmarks for good business practices for conducting online and offline commercial activities with consumers are as follows:

- a. **Fair and equitable treatment.** Businesses should deal fairly and honestly with consumers at all stages of their relationship, so that it is an integral part of the business culture. Businesses should avoid practices that harm consumers, particularly with respect to vulnerable and disadvantaged consumers;
- b. **Commercial behaviour.** Businesses should not subject consumers to illegal, unethical, discriminatory or deceptive practices, such as abusive marketing tactics, abusive debt collection or other improper behaviour that may pose unnecessary risks or harm consumers. Businesses and their authorized agents should have due regard for the interests of consumers and responsibility for upholding consumer protection as an objective;
- c. **Disclosure and transparency.** Businesses should provide complete, accurate and not misleading information regarding the goods and services, terms, conditions, applicable fees and final costs to enable consumers to take informed decisions. Businesses should ensure easy access to this information, especially to the key terms and conditions, regardless of the means of technology used;
- d. **Education and awareness-raising.** Businesses should, as appropriate, develop programmes and mechanisms to assist consumers to develop the knowledge and skills necessary to understand risks, including financial risks, to take informed decisions and to access competent and professional advice and assistance, preferably from an independent third party, when needed;
- e. **Protection of privacy.** Businesses should protect consumers' privacy through a combination of appropriate control, security, transparency and consent mechanisms relating to the collection and use of their personal data;
- f. **Consumer complaints and disputes.** Businesses should make available complaints-handling mechanisms that provide consumers with expeditious, fair, transparent, inexpensive, accessible, speedy and effective dispute resolution without unnecessary cost or burden. Businesses should consider subscribing to domestic and international standards pertaining to internal complaints handling, alternative dispute resolution services and customer satisfaction codes.

United Nations Guidelines for Consumer Protection (A/RES/70/186)

To encourage the participation of businesses in consumer protection, it would be important to organize sector-specific consultation frameworks, as well as consultations on issues such as the high cost

of living. Government departments and businesses also need to raise awareness and provide information, notably through employers' associations.

VI. OPERATIONAL FRAMEWORK

The operational framework for consumer protection in Gabon is in place, although there is still room for improvement. Since consumer protection is horizontal rather than vertical in nature, responsibilities in this area are shared, or even diluted, between several government departments and institutions reporting to different ministries.

This report focuses on the role played by DGCCRF, given its general mandate to protect consumers. DGCCRF has taken many initiatives, some of which are particularly noteworthy. Some are essentially preventive, while others are remedial.

A. CONSUMER INFORMATION AND EDUCATION

DGCCRF regularly organizes consumer awareness campaigns through the inspections and investigations it carries out on a regular basis. Similarly, every year, in close collaboration with consumer associations, it organizes a nationwide event, involving economic operators, to mark World Consumer Rights Day on 15 March, the date established by the United Nations.

For World Consumer Rights Day 2022, DGCCRF organized, in conjunction with consumer associations and economic operators, an awareness-raising seminar on the theme of “Digital finance in Gabon: Opportunities and challenges”. Ahead of the seminar, the newspaper *L’Union* devoted an article to the subject, which was also covered in radio and television broadcasts. In addition, flyers were distributed to consumers and economic operators, providing them with detailed information on the subjects involved.

DGCCRF also arranged for the following text message to be sent to consumers by mobile phone operators: “World Consumer Rights Day: in the age of digital finance, let’s all be informed and committed ‘Consum’Actors!’ Hotline 8085”. It coordinated interviews on this topic with some of its officials on various media. Television spots were also broadcast. Finally, it set up four units in Libreville to raise consumer awareness of their rights and duties, while informing them about its own protection work. These units also distributed flyers.

Over the course of 2021, other awareness-raising activities were organized. One that attracted a lot of attention was on the theme of toys and had the slogan: “Choose the right toy: Quality – Safety – Choice”. To mark the occasion, DGCCRF took part in the radio and television programme *Conso Mag*. In addition to all the organization and work involved in broadcasting the show to the general public, DGCCRF ran a campaign to raise awareness of the dangers of certain toys. A television spot was also broadcast.

Among the practical training courses organized by DGCCRF, the one on Colgate Palmolive products was particularly noteworthy. In May 2021, DGCCRF introduced practical training for 14 of its officials to help them detect products bearing this brand name on the counterfeit circuit.

However, the results of these training initiatives are still not very convincing, on the one hand because they are very much ad hoc and, on the other, because the infringements are so numerous and often difficult to detect. It is therefore important to build the capacity of law enforcement officers (notably those of DGCCRF) through ongoing training, particularly in the field of market surveillance, including through the training module offered by the regional centre of the Institute of Economics and Finance (IEF) in Libreville.¹³²

While the information and education initiatives of DGCCRF are sometimes carried out in collaboration with consumer associations, there is as yet no formal, official framework for such collaboration. However, DGCCRF works closely with these associations, in particular to prepare and stage World Consumer Rights Day, or when dealing with user complaints and disputes. It would be useful to develop a framework for institutional collaboration between consumer protection associations, which have volunteer staff, and DGCCRF, which suffers from a lack of human resources.

¹³² The regional centre of the Institute of Economics and Finance is a specialized institution of the Central African Economic and Monetary Community that offers initial and in-service training for economic and financial administration staff. See <https://www.ief-cemac.org/Présentation de l'IEF>.

B. COUNTERFEIT PRODUCTS

In 2020, action was taken to detect counterfeit products. To this end, several investigations were carried out, including those which led DGCCRF officials to discover counterfeit “Rambo” insecticides and “Blue” detergent. As a result of their investigations, 760,032 counterfeit Rambo insecticides were seized and destroyed.¹³³

In the same year, DGCCRF removed and destroyed counterfeit 3X energy drinks. A total of 6,480 cans of counterfeit 3X drinks were seized and destroyed.

DGCCRF agents also carried out surveillance activities that led them to identify counterfeit Fega Foot sports equipment. They then proceeded to remove and destroy 1,600 items of counterfeit sports equipment.

In 2016, following a complaint from the Schneider brand’s African representative concerning the presence of counterfeit pens on the market, an investigation was launched by DGCCRF to verify the conformity of the standard, brand and product. As a result of this investigation, 70,000 counterfeit Schneider pens were seized and destroyed.

C. CONSUMER HEALTH AND SAFETY

To ensure the health and safety of consumers, the Ministry of Economic Affairs and Recovery and DGCCRF have warning mechanisms in place to prevent the consumption or use of dangerous products and to withdraw them from the market and destroy them. In 2018, for example, following the crisis involving Lactalis infant nutrition products manufactured at the Craon plant in France that were contaminated with *Salmonella agona*, DGCCRF recalled and destroyed Picot-brand infant nutrition products manufactured by the company. By the end of the investigation, 182,035 cans, including float inventory, had been withdrawn from the entire country. These products, with a market value of 357,074,834 CFA francs, were destroyed.

Also in 2018, an alert was issued by the International Food Safety Authorities Network (INFOSAN)

¹³³ DGCCRF conducts counterfeiting investigations primarily in response to complaints by brand owners or their representatives, on its own initiative or in response to international alerts.

concerning jars of cream dessert from French brand Elle & Vire contaminated with *Bacillus cereus*. Following checks, DGCCRF seized and destroyed 15,247 pots of this dessert, worth 4,214,000 CFA francs. In the same year, an alert concerning the contamination of fresh and frozen vegetables from Hungary containing *Listeria monocytogenes* enabled DGCCRF to carry out an investigation that led to the recall and withdrawal of the contaminated products. The actual withdrawal was carried out under the supervision of the Gabonese Food Safety Agency.

In 2020, 1,947 toys that posed a risk to children’s safety were seized and destroyed for non-compliance, as part of DGCCRF market surveillance operations and investigations.

In the first quarter of 2022, Gabon issued a decree banning the import, possession or marketing of canned sardines in vegetable oil of the Belle Ville brand. Following consumer complaints and laboratory analysis, this product was declared unfit for human consumption due to high levels of total volatile basic nitrogen.¹³⁴ Moreover, it was noted that the description “sardines in vegetable oil” was misleading, since the DGCCRF laboratory analyses showed that the cans contained less vegetable oil than the required 70 per cent minimum (Codex Stan 94–1981, Rev.1-1995).

DGCCRF therefore took measures to protect consumers: it publicly recommended that they stop eating these sardines, and asked them to inform DGCCRF of the point of purchase via its toll-free number. Measures were also imposed on economic operators, importers and distributors. DGCCRF ordered the recall and destruction of the faulty products, but more importantly it decided to turn back any shipping container containing them.

Finally, DGCCRF forwarded several files to the public prosecutor for the prosecution of economic offenders.

D. COMPLAINT PROCEDURES

In order to respond quickly and effectively to cases of abuse, fraud or non-compliance with government consumer protection measures, DGCCRF set up new ways of handling complaints, including a toll-free

¹³⁴ Above the legal threshold of 60 mg of nitrogen per 100 g of fish (Codex Alimentarius Codex Stan 94–1981, Rev.1-1995).

number, a WhatsApp number, a Facebook page¹³⁵ and a website. Consumers are urged to use these platforms to denounce market abuses and violations of their rights.

The statistics show that half of the complaints received by DGCCRF (48.25 per cent) relate to illicit pricing practices, which could be explained by the impact of the COVID-19 pandemic on the economy.

¹³⁵ <https://www.facebook.com/dgccrf.gabon/> (accessed on 15 March 2023).

The phenomenon became more pronounced in 2020 as the country emerged from lockdown, with a 15 per cent rise in the number of complaints. Complaints are usually resolved amicably through the reimbursement and compensation of the aggrieved consumer.

Offenders may be subject to awareness-raising measures, administrative sanctions or a reminder of the law.

The two tables below give statistics on the nature and origins of the complaints received by DGCCRF.

Table 1: Nature of the complaints

Year		2018	2019	2020	2021	2022 (January–September)	Total
Description	Illicit pricing	24	44	89	44	103	304
	Failure to advertise price	7	5	3	-	38	53
	Sale of products unfit for consumption	6	19	43	21	22	111
	Break in the cold chain	-	16	10	6	-	32
	Failure to forward documents	-	7	20	-	-	27
	Other*	29	-	10	24	40	103
	Total	66	91	175	95	203	630

*Other: hidden defects, non-performance of contract, absence of warranties, etc.

Source: DGCCRF.

The introduction of the 8085 toll-free number contributed to an increase in the number of complaints

received, especially during lockdown, as did the surge in prices (see table 2).

Table 2: Origin of the complaints

Year		2018	2019	2020	2021	2022	Total
Complaints received		66	91	175	95	203	630
Origin	8085 toll-free number	54	63	147	62	161	487
	Mail	9	28	28	27	42	134
	Media	3	0	0	6	0	9

Source: DGCCRF.

Nevertheless, complaints are few and far between, for a number of reasons. One of the obstacles to filing a complaint relates to consumer perception: the consumer is sceptical about the expected outcome, as the economic operator is – sometimes wrongly –

considered to be in a strong position. In this sense, the bill, if implemented, would make it possible to partially resolve the difficulty through class actions, especially as access to justice would be free and procedures simplified.

Furthermore, consumers in Gabon often have to contend with a lack of information and education. However, the prospects opened up by the CEMAC Directive and the bill providing for education programmes in schools could provide a solution in the long term. It would also be advisable to promote existing tools for filing complaints. Consumer protection associations would have an important role to play here.

Finally, there is a problem with access to information. Consumers living in the most remote areas, who are more vulnerable and sometimes less educated, are not yet aware of consumer protection issues.

E. PROTECTION OF CONSUMERS' ECONOMIC INTERESTS, INCLUDING BY COMBATING THE HIGH COST OF LIVING

To cope with soaring international product prices, the Government has taken a number of measures following negotiations with the economic operators concerned. These include the introduction of official market prices to ease the burden on the basic shopping basket, making essential imported food products subject to price freezes and price controls. Ceiling prices also needed to be set for wholesale, low-volume wholesale, and retail products. In addition, the distribution channels for refined palm oil produced by Olam Palm Gabon have been reorganized. The various regulatory texts have been revised to take account of the COVID-19 pandemic and its consequences for the global economy in terms of higher product prices, and, more recently, the repercussions of the Russian-Ukrainian crisis on the Gabonese economy.

DGCCRIF has publicized its regulatory texts at the local level (in collaboration with municipal and district town halls) and conducted monitoring activities (market surveillance) with the aim of informing economic operators and consumers about the new measures and enforcing them.

F. INTERNATIONAL COOPERATION

One of the aims of the United Nations Guidelines for Consumer Protection is to promote international cooperation in this area. Thus, guideline 79 recommends that Member States should cooperate,

especially in a regional or subregional context, through the exchange of information on national policies and measures or the strengthening of existing mechanisms in the field of consumer protection, and also in the field of policy implementation. According to guideline 80, Member States should develop or strengthen information links regarding products which have been banned, withdrawn or severely restricted in order to enable other importing countries to protect themselves adequately against the harmful effects of such products. Guideline 82, meanwhile, calls on Member States, in the public interest, to improve their ability to cooperate in combating fraudulent and deceptive cross-border commercial practices.

It is to give effect to this international cooperation that Gabon participates in consumer protection alert systems, such as the Safety Gate system.¹³⁶ However, there is still room for improvement, since DGCCRIF could strengthen its involvement in other international mechanisms and could consider taking part in the African dialogue on consumer protection.

Multilateral cooperation also takes place in the field of training. In 2021, Gabon organized information and training seminars at the regional centre of the Institute of Economics and Finance in Libreville, to present the new Community regulations on the promotion of competition and consumer protection in Gabon. The seminars were organized in partnership with UNCTAD and CEMAC, under the auspices of the Ministry of Economic Affairs and Recovery.¹³⁷

¹³⁶ The Safety Gate rapid alert system enables national authorities to exchange information rapidly on measures taken against dangerous non-food products. Every day, national authorities send alerts to Safety Gate. Each alert contains information on the type of product identified as dangerous, a description of the risks it presents and the measures taken by the economic operator or ordered by the authority. Each alert is followed up on by other authorities, who take action if they find that the product is available on their national market. Other countries are also required to follow these alerts and, if they discover the same product on their market, to report it to Safety Gate. See <https://ec.europa.eu/safety-gate-alerts/screen/webReport>.

¹³⁷ Listing the various objectives, it was noted that, broadly speaking, the implementation of the Community regulatory framework will:

- Raise awareness among all stakeholders and publicize competition and consumer protection legislation through subregional and national seminars;
- Promote the application of the related rules;
- Improve the business climate and provide legal certainty for businesses in the countries of the subregion;
- Identify implementation strategies;

In view of the scope of the issues to be addressed as part of the implementation of the consumer protection guidelines, it is clear that the entry into force of the Consumer Protection Act will require the strengthening of international cooperation arrangements.

In view of the above, the following action is recommended:

1. Promote the participation of DGCCRF in the African dialogue on consumer protection, and strengthen its involvement in other international mechanisms such as the European Safety Gate alert system;
2. Consider implementing a regional alert system (with objectives similar to those of the Safety Gate system);
3. Strengthen technical partnerships with subregional, regional and international bodies such as UNCTAD, CEMAC, the International Consumer Protection and Enforcement Network (ICPEN), the European Union and the International Organization for Standardization (ISO).

G. COOPERATION BETWEEN PUBLIC INSTITUTIONS IN CHARGE OF CONSUMER PROTECTION

DGCCRF and other bodies regularly operate in the field to ensure consumer protection. For example, DGCCRF and the Gabonese Food Safety Agency carried out a joint monitoring exercise on the sale of water sachets. The aim was to identify operators in the informal sector and verify the hygiene conditions of raw materials, production units and labour with a view to improving consumer protection. The two organizations were also able to organize initiatives to raise awareness of their own statutes. This type of collaboration, though successful, remains occasional.

The public institutions responsible for consumer protection face a number of difficulties. The first is the conflict of jurisdiction resulting from the lack of coordination of government action in this area. Article 31 of the Ordinance of 21 August 1978 empowers inspectors from various ministries to carry

- Produce proposals for concrete actions, including sector-specific investigations in partnership with bodies such as DGCCRF.

out investigations in order to detect and establish breaches of the Act on the Control of Food Products and Foodstuffs.¹³⁸ Admittedly, the ordinance specifies that they can operate separately or in units, with each unit placed under the authority of a food quality control inspector.¹³⁹ However, the ordinance does not solve the problem of compartmentalized intervention, which can lead to conflicts of jurisdiction. For example, economic operators have been inspected on food-safety matters by the relevant DGCCRF services and then by officials of the Gabonese Food Safety Agency¹⁴⁰ without any prior consultation. This led to double checks on economic operators who, in this case, feared a double penalty for the very same, allegedly unlawful, acts.

DGCCRF should work more closely with regulatory bodies to avoid duplication of controls. It would therefore be advisable to take action to facilitate and strengthen cooperation between, and joint monitoring by, DGCCRF and regulatory agencies and other authorities, and avoid duplication in the monitoring and sanctioning of economic operators through inter-institutional coordination.

The public is not always kept informed about the work of DGCCRF or the outcome of its investigations. It is therefore important to step up efforts to raise public awareness and inform the public about the institution's actions, and to report on its activities via the Internet and other channels.

It is difficult to find statistical studies on consumer protection issues in Gabon. It is therefore recommended that arrangements be put in place to strengthen cooperation with official statistical bodies in Gabon, which would enable a better understanding of consumers' priorities.

In addition, it may be worth considering an interministerial approach characterized by enhanced cooperation between DGCCRF, which reports to the Ministry of Economic Affairs and Recovery, and all the

¹³⁸ The ordinance empowers officials in the following services:
- The external services of the Directorate General of Prices and Economic Surveys (now DGCCRF, pursuant to the 2014 Decree);
- The external services of the Directorate General of Customs and Excise;
- Weights and measures services;
- Health and sanitation services;
- Agricultural and livestock services.

¹³⁹ Ordinance of 21 August 1978, art. 31.

¹⁴⁰ Agence Gabonaise de Sécurité Alimentaire (AGASA).

other ministries involved in consumer protection,¹⁴¹ in order to avoid the obvious risks of conflicting jurisdiction.

In the case at hand, the law might provide for the division of powers between DGCCRF, which would be responsible for penalizing non-compliant operators, and the regulatory bodies, which would draw up reports based on their findings and forward them to DGCCRF. Joint activities (such as investigations) involving several ministries could be envisaged in cases that touched on their respective areas of competence.

Preference should be given to joint monitoring by DGCCRF and regulatory agencies and to avoiding

duplication in the monitoring and sanctioning of economic operators thanks to inter-institutional coordination.

Another priority is to build operators' trust in protection bodies. Currently, they are subjected to these compartmentalized controls, and sometimes even organize strikes to denounce them.

All of the foregoing highlights the need to establish a stable platform for regular dialogue between public authorities, employers' organizations and consumer organizations on consumer law issues.

¹⁴¹ These include the ministries responsible for health, social affairs, water, energy, and livestock and agriculture. This interministerial approach has been tried in several countries, including Morocco.

VII. CONCLUSION

Consumer protection in Gabon is an ongoing concern of the public authorities. A suitable framework must be based on a clear vision and requires a national policy and strategy. It is necessary to set out the public authorities' approach to this issue, to define consumer rights and to share responsibility for their protection between autonomous or independent administrative bodies and an institution responsible for the administration and protection of consumer rights. The vision is there and the framework is under construction. This is evidenced by the adoption of Decree No. 0253 of 29 September 2022 on the establishment, remit and organization of the Directorate General for Competition, Consumer Protection and Fraud Prevention, the bill of September 2022 and, above all, the establishment of the Ministry of Consumer Affairs and Cost of Living, headed by a minister of State.¹⁴²

Enablers of effective consumer protection include preventive mechanisms such as consumer information and education, prior control of product quality and the promotion of sustainable consumption patterns, as well as corrective mechanisms, including the financial, administrative and criminal penalties set forth in the applicable regulations.

In the legislative sphere, while the country does not yet have a specific consumer protection law, it does have a regulatory framework. Though still open to improvement, it is based on the rules set out in the United Nations Guidelines for Consumer Protection, such as protection of health and safety, protection of economic interests, access to information, and the possibility of obtaining effective redress for the aggrieved consumer. In terms of the institutional framework, the consumer protection system has established competent authorities with a range of administrative, civil and criminal penalties at their disposal to deal with any duly verified infringement. In addition, aggrieved consumers have several remedies through which they may obtain compensation.

The protection system nevertheless suffers from shortcomings linked to the absence of a consumer culture, a lack of awareness of consumer protection principles and, above all, insufficient human and financial resources to carry out the tasks and achieve the objectives set out, as well as a lack of genuine collaboration between the players involved in the system due to the tangle of legislative and regulatory texts and the multiplicity of stakeholders.

All consumer protection actors in Gabon face certain challenges. For the Government, one major challenge is to transpose Community rules, particularly the CEMAC Directive of 2018 harmonizing consumer protection, into the domestic legal order. For public consumer protection agencies, the main challenges relate to their independence and interministerial cooperation. Companies face the challenge of self-regulation. The challenges for consumer associations concern their professionalization and accountability.

Nor should the institutional challenges be overlooked. Gabon does not yet have any advisory body (a council, commission or observatory) with the authority or competence to advise the public authorities on consumer issues.

Moreover, there is as yet no official administrative coordinating body responsible for consumer protection policy. Ministries often want to play the leading role and keep control of the dossiers in their respective sectors, which is not conducive to coherence or achieving the desired objectives.

Lastly, the development of the informal economy is not conducive to the effective supervision of operators. The existing framework does not encourage collective action.¹⁴³ It could therefore be supplemented by the introduction of class actions, following the example of North America. Class actions allow a large number of aggrieved consumers to join together to seek effective compensation for their losses.

¹⁴² See the Decree of the President of the Republic of 9 January 2022 appointing the members of the new Government.

¹⁴³ The defence of group interests can be undertaken by a consumer association or a non-governmental organization.

Another challenge – this time a cross-cutting one – concerns the financial and human resources required to meet the Government's vision and objectives. Consumer protection requires substantial financial resources, as well as competent, well-trained human

resources. In practical terms, the recruitment of staff to work on consumer protection must take into account not only their qualifications, but also the challenges posed by the development of a consumer society.

VIII. RECOMMENDATIONS

This analysis of the legal and institutional framework for consumer protection in Gabon has led to a number of recommendations being made in this review. To facilitate an overarching analysis, the following table breaks down the recommendations by area: legislative

and public policy framework, institutional framework and operational framework. In addition, to facilitate implementation and follow-up, the target audience for each recommendation is identified.

Area	Recommendations	Target audience
Legislative and public policy framework	<p>1. Develop the framework policy/strategy on consumer protection. To be established by the Gabonese Government, this should set out the vision of the consumer protection system that it aims to put in place to ensure the well-being of its population, including by:</p> <ul style="list-style-type: none"> a. Streamlining the legislative framework on consumer protection and harmonizing laws in accordance with the pro-consumer principle (interpretation of laws in the consumer's favour); b. Extending consumer protection to all sectors of economic activity, including e-commerce, health and transport; c. Promoting a culture of consumer protection and strengthening consumer education and information activities using all available media, with a focus on vulnerable and disadvantaged populations, in partnership with consumer associations; d. Encouraging the amicable settlement of disputes between operators and consumers, including through conciliation, mediation and arbitration, in partnership with accredited consumer associations; e. Improving access to justice for consumers by establishing a legal aid mechanism that meets the criteria set forth in legislation; f. Promoting sustainable consumption patterns, including through consumer education and information, the promotion of good business practices and the suppression of misleading business practices; g. Considering the inclusion of consumer protection in the digital strategy of Gabon, in order to ensure effective consumer protection in both online and offline commerce, ensuring that laws adapt to the evolution of markets; h. Strengthening personal data protection and cooperation between the Directorate General for Competition, Consumer Affairs and Fraud Prevention and the National Commission for the Protection of Personal Data in order to ensure consumers' privacy and the security of their data; i. Putting in place a national financial inclusion strategy with the cooperation of the Central Bank, the financial services regulator and the Directorate General for Competition, Consumer Affairs and Fraud Prevention in order to ensure effective consumer protection in financial services, particularly in respect of access, financial education and remittances. 	Legislative and executive branches
	<p>2. Accelerate the transposition of Directive No. 02/19-UEAC-639-CM-33 of 8 April 2019. Adopt a framework law or consumer protection act based on the CEMAC Directive, the United Nations Guidelines for Consumer Protection, and international best practices tailored to the economic, cultural and political context of Gabon.</p>	Legislative and executive branches
	<p>3. Implement Regulation No. 01/20/CEMAC/UMAC/COBAC on the protection of consumers of banking products and services in CEMAC (for example, by upholding the right to open an account and the principle of effective access to financial services, and monitoring banks' and financial institutions' correct application of annual percentage rates and their respect for consumers' economic interests in general).</p>	Legislative and executive branches
	<p>4. Prepare implementing regulations for the future consumer protection act.</p>	Executive branch

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Area	Recommendations	Target audience
	5. Publish and disseminate the sanctions imposed on businesses, thus helping to raise public awareness of consumer law as a general preventive measure; ensure that laws provide for the indexing of financial penalties so that they are protected from inflation, so that they act as a deterrent.	Legislative and executive branches
	6. Make arrangements to enable consumer associations to institute legal proceedings, including class actions.	Legislative and executive branches
Institutional framework	1. Designate the government authority to which the Directorate General for Competition, Consumer Affairs and Fraud Prevention belongs as the focal point for consumer protection. This authority will be competent for all consumer relations and will coordinate all government action in the field of consumer protection.	Executive branch
	2. Establish the administrative bodies envisaged in CEMAC Directive No. 2 of 2019 on consumer protection in order to facilitate dialogue between the State, civil society and the private sector with a view to better protecting the interests of consumers, namely: <ul style="list-style-type: none"> a. A national consumer council; b. A consumer safety commission (to consider matters relating to products and private and public services); c. An unfair terms commission (bringing together representatives of public authorities, consumer associations and professional associations). 	Executive branch
	3. Strengthen the framework for interministerial dialogue and coordination, so as to ensure good coordination and cooperation of authorities with an interest in consumer protection, in particular the Directorate General for Competition, Consumer Affairs and Fraud Prevention and the technical regulatory bodies: <ul style="list-style-type: none"> a. Divide responsibilities between the Directorate General for Competition, Consumer Affairs and Fraud Prevention, as the body with general competence, and technical bodies with specific competences, such as the Gabonese Standardization Agency, the Gabonese Food Safety Agency, the Regulatory Agency for Electronic Communications and Postal Services and the customs authority, in such a way as to favour the clarity and complementarity of their functions; b. Promote cooperation between authorities responsible for consumer protection (for example, through inter-institutional agreements) on information-sharing, public health alerts and regular inspections. 	Executive branch
	4. Raise awareness among members of the judiciary and build the capacity of judges in respect of consumer protection issues.	Executive and judicial branches
	5. Support the professionalization of consumer associations, either through the public funding of accredited associations that meet certain objective criteria (funding which is essential for them to provide support, training and information to consumers), the distribution of the proceeds of penalties imposed on operators as a result of proceedings initiated by the consumer protection body, or the allocation of compensation awarded in the context of actions they have brought for the defence of consumer interests.	Executive branch and consumer associations
	6. Promote good business practices (in terms of fair and equitable treatment, disclosure and transparency, education and awareness-raising, protection of privacy, complaints and disputes), organize platforms for sectoral consultations with the Directorate General for Competition, Consumer Affairs and Fraud Prevention on issues such as the high cost of living, and organize joint awareness-raising and information activities.	Executive branch and employers' associations
	7. Strengthen and promote certification and standardization mechanisms.	Executive branch
	8. Increase the human and financial resources of the decentralized services of the Directorate General for Competition, Consumer Affairs and Fraud Prevention.	Executive branch

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Area	Recommendations	Target audience
Operational framework	1. Step up efforts to inform the public and increase its awareness of the activities of the Directorate General for Competition, Consumer Affairs and Fraud Prevention, and publicize the results of the Directorate's activities on the Internet and through consumer protection associations and other channels.	Directorate General for Competition, Consumer Affairs and Fraud Prevention
	2. Increase consumers' awareness of risks to their health and safety, including the risks posed by the abuse of traditional medicines.	Directorate General for Competition, Consumer Affairs and Fraud Prevention
	3. Build the capacity of law enforcement officers (including officials of the Directorate General for Competition, Consumer Affairs and Fraud Prevention) through training, especially in market surveillance, including at the regional training centre of the Institute of Economics and Finance; and establish partnerships between the Directorate and consumer protection associations or federations, for example by setting up formal consultation mechanisms.	Directorate General for Competition, Consumer Affairs and Fraud Prevention
	4. Set up and strengthen mechanisms to warn consumers about products that are dangerous or that might not be safe for them to use, in the framework of market surveillance, and increase cooperation with the customs authorities concerning the circulation of such products.	Directorate General for Competition, Consumer Affairs and Fraud Prevention
	5. Enhance the quality control laboratory of the Directorate General for Competition, Consumer Affairs and Fraud Prevention by integrating a scientific centre devoted to multidisciplinary research in areas related to consumer interests.	Directorate General for Competition, Consumer Affairs and Fraud Prevention
	6. Facilitate and strengthen cooperation between, and joint monitoring by, the Directorate General for Competition, Consumer Affairs and Fraud Prevention and regulatory agencies and other authorities, and avoid duplication in the monitoring and sanctioning of economic operators through inter-institutional coordination.	Directorate General for Competition, Consumer Affairs and Fraud Prevention and regulatory agencies
	7. Strengthen cooperation with official statistical bodies in order to better understand the consumption priorities of the Gabonese population.	Directorate General for Competition, Consumer Affairs and Fraud Prevention and consumer protection associations
	8. Foster the participation of the Directorate General for Competition, Consumer Affairs and Fraud Prevention in the African dialogue on consumer protection, increase its engagement with other international mechanisms such as the Safety Gate alert system of the European Union, and strengthen technical partnerships with subregional, regional and international bodies such as CEMAC, UNCTAD, the International Organization for Standardization, the International Consumer Protection and Enforcement Network and the European Union.	Directorate General for Competition, Consumer Affairs and Fraud Prevention
	9. Consider implementing a regional alert system (with objectives similar to those of the Safety Gate system).	Directorate General for Competition, Consumer Affairs and Fraud Prevention

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Loi n° 29/63 du 15 juin 1963 portant réglementation du régime des prix en République Gabonaise.

Loi n° 15/88 du 30 décembre 1988 fixant le régime juridique applicable aux baux d’immeubles à usage d’habitation et à usage mixte professionnel et d’habitation.

Loi n° 024/2016 du 29 décembre 2016 portant régime juridique de la production, du transport et de la distribution de l'énergie électrique au Gabon.

Loi n° 15/88 du 30 décembre 1988 fixant le régime applicable aux baux d'immeubles à usage d'habitation ou à usage mixte professionnel d'habitation au Gabon.

Loi n° 001/2005 du 4 février 2005 portant statut général de la fonction publique.

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Ordonnance n° 50/78 du 21 août 1978 portant contrôle de la qualité des produits et denrées alimentaires et répression des fraudes.

B. Decrees

Décret n° 665/MEFBP/PR du 9 août 2004 portant création, attributions et organisation de la Direction Générale de la Concurrence et de la Consommation.

Décret n° 00253/PR/MER du 29 septembre 2022 portant création, attributions et organisation de la Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes.

Décret n° 0292/PR/MAPDR du 18 février 2011 portant création et organisation de l'Agence Gabonaise de Sécurité Alimentaire.

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Règlement n° 04/19/CEMAC/UMAC/CM du 10 août 2020 relatif au taux effectif global, à la répression de l'usure et à la publication des conditions de banque dans la CEMAC.

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LIST OF PEOPLE INTERVIEWED AND INSTITUTIONS CONSULTED

REGIONAL AND COMMUNITY INSTITUTIONS

- Director General of the Central African Banking Commission (COBAC)
- National Director of the Bank of Central African States (BEAC)
- Director General of Financial Market Surveillance Commission of Central Africa (COSUMAF)
- Director General of the Inter-African Conference on Insurance Markets (CIMA)

NATIONAL INSTITUTIONS

- General Secretariat of the Government
- Economic, Social and Environmental Council
- National Commission for the Protection of Personal Data
- Senate
- National Assembly

MINISTRIES

- Ministry of Justice
- Ministry of the Digital Economy

GOVERNMENT AGENCIES

- Director General of the Gabonese Food Safety Agency (AGASA)
- Director General of Relations with Parliament
- Director General of the National Pharmaceutical Office
- Director General of the Medicines Agency
- Director General of the Institute of Economics and Finance)

PRIVATE BODIES

- President of the Chamber of Commerce
- President of the Business Federation of Gabon (FEG)
- Director General of Moov Africa
- Director General of Airtel Gabon

SECTORAL REGULATORY AGENCIES

- Gabonese Standardization Agency (AGANOR)
- National Civil Navigation Agency (ANAC)
- Regulatory Agency for the Drinking Water and Electricity Sectors (ARSEE)
- Regulatory Agency for Electronic Communications and Postal Services (ARCEP)
- Regulatory Authority for Rail Transport (ARTF)

JUDICIAL OFFICERS

- President of the Commercial Court
- President of the Court of First Instance of Libreville
- Attorney General

CONSUMER ASSOCIATIONS AND OTHER MEMBERS OF CIVIL SOCIETY

- President of the Pharmacists Association
- President of SOS Consommateurs
- President of the Gabonese Consumer Organization
- President of the Professional Association of Lending Institutions (APEC)
- President of the Brainforest non-governmental organization
- President of the Gabonese Association of Bank Users (AGUB)
- President of the Association of Microfinance Institutions (AEM))

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