

**Timor-Leste's consumer protection law:
how to apply an administrative model for law enforcement in the
absence of a consumer protection specialized agency?
Thinking on alternatives**

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Abstract:² Competition and consumer protection policies, laws and regulations are the core to the functioning of markets, increasing innovation, productivity and inclusive growth (Godfrey, 2018: 3). They also help to boost consumer welfare by ensuring that business can be held accountable; it increases business competitiveness by stimulating efficiency; and, yet, facilitates regional integration by establishing rules that are familiar amongst jurisdictions.

Furthermore, it is important to consider that some determinants for the ineffectiveness and inefficiency of competition and consumer protection policies, laws and regulations in certain contexts are related to the fact that, in many jurisdictions, they are direct translations of legislations

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from industrial nations, where factors such as socio-economic goals, political will and structure, differs greatly (Boner, 1995: 18).

In Timor-Leste, the Consumer Protection Act (Law n.º 8/2016, of 8 of July) seems to align best practices from a developed country. Such law, however, does not designate a specialized consumer protection agency to be responsible for the development and application of the premises stated in such law.

On this, an important question remains: would it be possible to efficiently apply an administrative model in Timor-Leste where there is no competition/consumer authority established?

Having this in mind, this paper proposes to discuss, briefly, the legal and institutional framework for consumer protection in Timor-Leste, questioning how efficient the model in place is taking into account the inexistence of a competition and consumer authority in the country.

Key words: (1) Competition; (2) Consumer Law; (3) Consumer Protection; (4) Implementation); (5) Consumer Authority (6) Timor-Leste

1. Introduction

Twenty years after restoration of independence, Timor-Leste has created the preconditions for successful development. It has credibly emerged from a crisis of internal violence and political instability in 2006/7 (World Bank, 2013: 7) and, since this crisis, the country has created political and economic stability, with own-resources far surpassing Official Development Assistance (ODA) (OECD, 2019). The country has put in place many efforts to diversify its economy, which still is heavily dependent on the oil & gas (O&G) sector as a single commodity, which accounts for 80% of the GPD (World Bank, 2013: 7). To achieve strong economic growth over the medium and long term and move away from petroleum and gas production, regulatory and institutional

reforms were started during the 6th Constitutional Government. Many of these reforms, still in place, are necessary to support accession on the World Trade Organization (WTO) and ASEAN.

Nevertheless, to reach its agenda in complying with WTO and ASEAN standards in regard to a legal and institutional framework, many missing legislations have been created since, often inspired in laws from industrial economies, from where national institutions are much more developed.

The Consumer Protection Act (Law n.º 8/2016, of 8 of July) is an example of legislation that was lacking and that was drafted based on the European regime. For such a law, the Portuguese consumer protection framework was used as an inspiration.

As a fact, the Consumer Protection Act of Timor-Leste aligns best practices from a developed country. The law established a legal framework for consumer protection, envisaging the message stated in the section 53.º of the Constitution of Democratic Republic of Timor-Leste (CDRTL), which sets out consumer's rights. Namely, the quality of goods and services consumed, the access to information, the protection to health and safety and the right to the protection of economic interests against misleading and abusive advertising. This law settled out the approach of the State towards consumer protection, enumerating, clearly, the rights of consumers. However, the Consumer Protection Act of Timor-Leste does not designate a consumer protection agency to be responsible for the development and for the application of the premises stated in such a legal diploma.

Upon this perspective, it is relevant to question how efficient is a Consumer Protection Law that lists rights of consumers,

establishing proper definitions, stating prohibitions on restrictions of certain practices and stating a range of remedies, while, on the other hand, the establishment, structure, powers, and functions of government agencies accountable for policy-making and law enforcement on consumer protection is not, at any point, referred in such act.

Scholars suggest that a proper enforcement of regulations and agencies demands the creation of the right mix of instruments, where culture, history, and economic factors shall be taken into consideration (Ottow, 2015: 147). On consumer protection, the creation of an independent statutory authority with competence to enforce the Consumer Act and a range of additional legislation and regulations, promoting competition and fair trading, also demands the observance of such principles.

In this aspect, and because, logically, national economic circumstances differ from country to country as well, transplanting a legislation that works in a specific developed economy, without consider the economic model and the “levels of development” that operates in the developing country for which such policies will be transplanted (such as political commitment, infrastructure, legal or other regulatory barriers, just to mention a few issues) may certainly inhibit successful adoption and effective enforcement (Evennett, 2015: 29).

Having these concepts in mind, it is then important to question: how, then, can law applicants implement an administrative model in Timor-Leste for consumer protection enforcement, considering that the creation of a competition/ consumer authority was not predicted in the Consumer Protection Act? Nevertheless: could the mechanisms provided under the

Timor-Leste Consumer Act be efficient enough to grant the protection consumers deserve?

Unfortunately, Timor-Leste suffers from a weak governance framework in regard to the application of the rule of law and public service provision. Therefore, many legislations and institutions created since Timor-Leste's independence are either lacking or unenforced (World Bank, 2018: 13). So, to answer the questions above, it is necessary to understand the legal and institutional framework of consumer protection in Timor-Leste, as per following.

2. Brief overview on the legal and institutional framework of consumer protection in Timor-Leste

Consumer protection policies and laws allow consumers to make better decisions based on clear and timely information they have access to, ensuring they buy with confidence because producers and distributors will fulfil their promises about the quality of goods and services they offer (ASEAN, 2018: 3). In this spirit, Timor-Leste enacted a general Consumer Protection Law (Law n.º 8/2016) in June 2016. This is the first law since Timor-Leste's independence that establishes a specific legal framework for consumer protection. The law also provides an incentive for improvement of the quality in the corporate sector.

The matters within the scope of the law are: rights and duties in consumer relations; available actions for damages to consumers' rights; contractual protection; business practices; sanctions; protection of consumer rights; and consumer protection associations.

Some consumer protection provisions are also addressed in the Civil Code (Law n.º 10/2011, of 14 of September) and spread throughout several sector-specific statutes. Namely for some infrastructure services (electricity and telecommunications), insurance, Oil & Gas, food products and advertisement.

Nevertheless, although a legal framework has been in place to regulate competition in some sectors, serving as the base to also create regulators, there is still room for improvement. In fact, important regulatory agencies are still missing. Controversially, existing government agencies have not been efficient in regulating the distribution of core services, particularly those related to infrastructure (ADB, 2015: 40).

On electricity services, for example, the Decree-Law n.º 13/2003, of 24 of September, establishes the main organizational rules applicable to the National Electricity System. Such legislation also sets basic consumer's rights. As a fact, the Government has the competence to establish the strategy for developing the National Electricity System, as well for the supervision of the activities carried out by power production, transport, and distribution service providers. Through this framework, however, current and new regulated entities shall be supervised and guided by the Regulatory Authority for Electricity that only recently, through the Decree-Law n.º 40/2020, of 25 of September, was established.

The Decree-Law n.º 15/2012 of 28 March 2012 sets the legal framework applicable to the provision of telecommunications services, the exploitation of telecommunications networks, and to the use of the radio spectrum in Timor-Leste. The National Communications Authority (Autoridade Nacional de

Comunicações, “ANC”) is the sector’s supervisory entity and operator’s regulator, created by means of this Decree-Law after the liberalization of the telecommunications market. However, up to date, ANC has not completely established itself and adequately undertaken the responsibilities stated in this decree-law (ADB, 2015: 40).

Still, the Law n.º 6/2005 of 6 July 2005, approved the rules on the licensing, supervision, and regulation of insurance companies and insurance intermediaries, with a view to setting the legal basis for the development of this sector in the country.

On the Oil & Gas sector, the National Petroleum Authority (NPA) Regulation n.º 1/2013 of 18 September 2013 and NPA Regulation n.º 1/2014 of 15 January 2014, sets forth the rules on installation and operation of fuel filling stations, including certain requirements on information to be mandatorily provided to consumers, also regulating the specifications for fuel, biofuel, and lubricants to be used in the country.

Also, a part from the National Telecommunications Authority of Timor-Leste (Autoridade Nacional de Comunicações - ANC), which regulate competition in the telecommunication market, the regulatory role in other sectors is performed by the same government agencies involved in service delivery (ADB, 2015: 40).

In addition, the Decree-Law n.º 7/2009 of 15 January 2009, regulates the licensing procedure for restaurants and bars, including those that provide traditional beverages and similar establishments. Although this statute does not bring specific consumer protection rules, as a fact, the licensing procedure itself has been implemented for purposes of consumer protection, and

to ensure acceptable levels of food quality and hygiene. Meanwhile, the Decree-Law n.º 28/2011 of July of 2011 regulates the Food Products Industry and Trading. This statute sets forth some general rules applicable to official regulation and self-regulation of companies operating within the food sector, as well as those applicable to consumer protection. Inspections under this decree fall on the Inspection and Control Authority on Economic, Sanitary and Food Activities' (AIFAESA) competence. Created by the Decree-Law n.º 26/2016, of 29 of June, as a Public Institute, AIFAESA has as its mission to promote inspections' activities and supervision of economic activities related to the food and non-food sectors.

Bearing in mind that the Law n.º 8/2016, of July 8 (Consumer Protection Law) has been in force since its publication and that it is the Government that is responsible for promoting the implementation of such a law to adopt appropriate measures to ensure the balance of relations legal entities whose purpose is essential goods and services; and, considering that, for the purposes of realizing the interests of consumers, the Government is responsible for promoting the existence of a legal entity, intended to support the public functions of defence and protection of consumers, the Prime-Minister Office issued an order (dispatch n.º 79/2017/VI/PM) determining that, until the creation of a Specialized Government Agency to promote consumer protection under the Law n.º 8/2016, of July 8, the functions of supporting the defence and protection of consumers shall be carried out by AIFAESA. Under this order, and to carry on such responsibility, AIFAESA shall coordinate all activities of inspection and supervising with other relevant authorities. Despite

that, private sector representatives raise huge concerns regarding the operations and procedures of AIFAESA staff, stating that decisions made are, in many aspects, repetitive and too discretionary. The main issues are listed in the next section.

In addition, Timor-Leste has, at the Ministry of Tourism, Commerce and Industries (MTCI), the National Directorate for Commercial Regulation and Consumer's Protection. As stated in the Decree-Law n.º 12/2019, of 14 of June (amended by the Decree-Law n.º 66/2020, of 22 of December), the National Directorate for Commercial Regulation and Consumer Protection, is the service from the General Directorate for Trade, from the MTCI.

Among other activities, the National Directorate for Commercial Regulation and Consumer Protection can propose measures for the defence of consumer rights, this in coordination with public institutes and consumer protection associations.

Yet, such service shall collaborate with AIFAESA in the implementation of inspections, promoting the defence and protection of consumers under the terms of the law and ensuring measures to intervene in prices and market regulation. However, it is unaware how efficient such a department is and how consumers, in general, can reach out for such services. Consumers, in general, haven't heard about such a department.

Another interesting characteristic of the National Directorate for Commercial Regulation and Consumer Protection is the fact that such a government department shall ensure a system of market price indicators, coordinating with other relevant national bodies the implementation of the policies related with the

intervention in the prices of products considered essential, in accordance with Decree-Law n.º 29/2011, of 20 of July.

Finally, overseeing metrology and standardization through inspection activities are also competences that fall under AIFAESA, as stated in the aforementioned Decree-Law n.º 26/2016.

3. AIFAESA and the MTCI roles in the promotions of consumers' protection: efficiency or unnecessary bureaucracy?

As previously referred, AIFAESA was created in 2016 as a public institute, with the competence to control the quality of foodstuffs, including their sanitary and transportation conditions. This authority also cares to eliminate, reduce or prevent risks to public health.

On the other hand, such responsibility, at certain level, cross competences from other institutions like, as previously referred, inspections that also falls on MTCI per the rules stated in the Decree-Law n.º 7/2009, necessary for the purpose of issuance of commercial license.

This duplication of inspection's procedures that are, in many instances, costly to the private sector.

Private Sector representatives' states that, the lack of coordination and proper information from each of those two government agencies makes the current flow of inspections duplicative and unpredictable. This deficiency in coordination and effectiveness in regard to service deliverance seems to be a

reflection of several factors related to institutional and, eventually, political conditions.

Either the absence of specific regulation or the lack of harmonization of new laws with the already established legal framework may impose challenges in regard to the implementation of settled rules. The duplication of procedures, as happens in regard to the attributions of the MTCI and AIFAESA, as an example, results, in many instances, in a wasting of time of either the public servants and the private sector representatives. In addition, such procedures are costly for both the Public Administration and to the Private Sector, if factors such as staff's time that are allocated to solve such administrative matters; the usage of materials (such as paper, photocopies), transportation, and/or payment for outsourcing professionals (such as legal firms eventually hired by the private sector to follow administrative procedures) are taken into account.

Specifically on Consumer Protection, the current Consumer Protection Law of Timor-Leste aligns best practices from a developed country. As previously referred, inspired in the European Consumer Protection regime, more specifically, in the Portuguese Consumer Protection Framework, the Timorese Consumer Protection Law asserts the approach of the State towards consumer protection. Such an approach is also referred to in the Constitution of Timor-Leste, which brings basic definitions and basic rights of consumers. The Law aims for good business practices, listing rights of consumers, stating proper definitions, as well prohibitions and restrictions of certain practices. It also proposes a range of remedies. Nevertheless, and although inspired in the Portuguese legal system applicable

to Consumer Protection, namely the Law n.º 24/96, of 31 of July, the Consumer Protection Law of Timor-Leste does not designate an agency to be responsible for the policy-making, law enforcement and advocacy on consumer protection and consumer rights.

In Portugal, consumer policy, consumer protection and consumer affairs are objectives from the authority of the Secretary of State for Trade, Services and Consumer Protection, within the Ministry of the Economy, Innovation and Development. As stated in the Law n.º 24/96, it is the Portuguese Consumer Directorate-General who contributes to the drafting, definition and application of consumer policy.

On the other hand, regulatory authorities have the responsibility for monitoring certain sectors, such as the Competition Authority; the Bank of Portugal; the Security Market Commission; the Insurance Institute of Portugal; the National Communications Authority (ANACOM); the Water and Waste Regulating Entity (ERSAR); the Directorate-General for Energy and Geology; the Energy Regulatory Authority (ERSE); the Media Regulator (ERC); the National Civil Airlines Institute (INAC) - just to mention a few -, and, finally, the Food and Economic Safety Authority (ASAE).³

In Timor-Leste, as already referred to, AIFAESA was established as the authority with competence in promoting control on economic, sanitary and food activities, overseeing metrology and standardization through inspection. AIFAESA was created following a similar administrative authority from Portugal:

³ For a complete list of the Portuguese consumer policy institutions, see https://ec.europa.eu/info/sites/info/files/national-consumer-organisations_pt_listing.pdf

ASAE. However, although ASAE operates under the umbrella of the Portuguese Ministry of Economy, this authority is a criminal police body.

Conversely, and even though AIFAESA, when created, was operating under the tutelage of the prime-Minister, the institute is now acting under the tutelage of Timor-Leste's Coordinating Minister of Economic Affairs, as stated in the art. 14.º, 4 (h), of the Government Organic Law (Decree-Law n.º 27/2020, of 19 of June).

With responsibilities in the promotion of food safety and the discipline of the economic activities in the sectors of market surveillance through inspection and compliance, AIFAESA does not have competence to draft, define and implement consumer policy, a responsibility granted in the Portuguese Consumer Law to the Consumer Directorate-General, as already referred.

Consumer Protection Agencies has important responsibilities in enforcing consumer protection (and competition) laws, such as issue administrative rule to regulate conduct of businesses entities while ensuring consumer's interests; advise the government on actions to be taken in regard to consumer protection; organize public education on consumer's matters; and manage and control the performance of dispute resolution mechanisms; just to mention a few (ASEAN, 2018: 3). This role is missing in the current Timorese consumer protection framework.

Even thou AIFAESA does not have competence to set policies, design mechanisms for consumer protection, or even to promote consumer empowerment, the authority, in realizing inspections to fulfil the objectives stated in the Decree-Law n.

º 26/2016, shall coordinate the law enforcement with other relevant institutions, such as the Ministry of Health (MoH), with the National Laboratory and with the MCIA.

However, reports and interviews with private sector representatives suggest that not all agents from AIFAESA fully understand the institution's legal statute, nor have the capacity to properly coordinate the agency's work with other relevant institutions. And as previously mentioned, both AIFAESA and many ministries still replicate procedures in regard to inspections.

In fact, AIFAESA was initially designed to bring to the same agency all professionals from distinct institutions that promote some sort of inspections. This relocation process started during the mandate of the 6th Government. However, the Government's term came to an end before the relocation of all necessary professionals from relevant ministries was concluded. Such circumstances resulted in the duplication of inspections. In addition, businesses have complained that such a process is conducted in a very discretionary manner by AIFAESA's staff and such inefficiency has affected both business and consumers.

As a fact, in Portugal, ASAE has a set of institutional support that grants higher success of their operations. Staff is well trained and adequately equipped, exposed on the consumer demand side, as well as existing or emerging consumer challenges. Cooperation among different institutions is well established, either by a proper regulatory framework or through an efficient socialization of the legislations in place. Finally, coordination mechanisms to increase compliance to laws by relevant stakeholders seems to be encouraged. This process involves inclusive consumer organizations. Contrary, in Timor-Leste, many

legislations are promulgated without officials receiving proper training. Sometimes they are not even exposed to these new norms that are written in Portuguese, a language that the majority of the population does not speak fluently. According to the 2010 Census, only 23,5% of the population speaks Portuguese.

In this aspect, it seems that the application of the Decree-Law n.º 26/2016 has been ineffective. For businesses, the inspection process remains unclear and discretionary. For institutions, there is duplication and misalignment in requirements and criteria to control. It will be necessary to establish a mechanism for effective coordination between all authorities involved in inspections, even the objectives for each may differ. Preferably, and as originally conceived, the allocation of all inspectors still seated in different institutions to this new agency could, in a short term, eliminate inadequate bureaucracy and unnecessary cost to both private and public sector.

Factually, consumer organization can also play a very important role in addition to a more responsive Authority to be established to address consumer protection problems.⁴ Indeed, consumer organizations are quite effective in creating awareness about consumer rights, conducting campaigns in response to consumer's issues, also representing, advocating and lobbying in favour of consumer's interests.

Although the Consumer Protection Law of Timor-Leste has a provision in regard to the possibility to have Consumer

⁴ By Consumer Organization, we here refer to any "non-profit organizations" that, by law, can take the form of Association or Foundation, in accordance with the Timor-Leste legal framework. Namely in accordance with the Decree-Law n.º 05/2005, on Non-Profit Corporate bodies. See: Decree-Law n. 05/2005, on Non-Profit Corporate bodies (Timor-Leste).

Organizations established - a circumstance that reflects a constitutional right related to the freedom to associate⁵ -, only almost 2 years after the law has been enacted is that civil society representatives started to meet, coordinating themselves as a non-governmental and non-profit body (ASEAN, 2018: 3), organized to promote and advocate on consumers' protection and consumer rights. In March of 2018, the Consumers of Timor-Leste Association (TANE – Consumidores de Timor-Leste) were established, with 11 members. TANE has celebrated a cooperation with DECO, one of the largest Portuguese Consumer's Protection Association that possesses a public utility status. Through this cooperation, capacity building on consumer's protection mechanisms has been provided. TANE is, up to date, the only registered association in the country to promote consumer's protection.

The Consumer Protection Law of Timor-Leste provides for the consumers' associations the right to accompany lawsuits, but not to file legal actions on behalf of a consumer or group of consumers. Consumers Association may also provide technical opinion or propose procedural steps. Currently, the performance of the registered association on consumer's protection, namely on activities related to advocacy; coordination of campaigns in response to consumer issues; education of consumers and monitoring of legal proceedings is still inexpressive.

Support to the constituted association seems to be very important to guarantee, in Timor-Leste, consumer's protection. However, more publicity could be given to TANE, as there is not

⁵ See the Constitution of Democratic Republic of Timor-Leste (Timor-Leste), s 43.

much information available to the general public in regard to the competences and actions proposed by such an association.

Finally, the Timorese Consumer Protection Law grants statutory authority to government institutions to promote the protection of consumers, namely to the Public Prosecution Office and to the Public Defence Office. The Public Prosecutor must intervene in administrative and civil actions tending to protect the general interests of consumers. The Public Defender's Office, in turn, may represent consumers with insufficient economic resources.

It is also unaware how many consumers have reached either the Public Prosecution Office and to the Public Defence Office to present complaints related to consumer rights, nor if any of those institutions have a specialized division in Consumer Protection.

4. The application of an administrative model despite the absence of a designated competition and/or consumer agency: thinking of alternatives for Timor-Leste

Lowe, when discoursing about the design of competition policy and enforcement systems, observed that 'good rules remain dead letter if there is no efficiently run organization with the processes to implement them. Conversely an efficiently managed authority cannot compensate for fundamental flaws in the rules which it is to implement' (Lowe, 2008: 1).

This assertion is very pertinent to the present context, where the existing legal framework on Consumer Protection did not properly address an administrative structure through which the main law should be implemented (Lowe, 2008: 1).

Clearly, the Consumer Protection Act of Timor-Leste is a good attempt to address consumer problems. However, such law was inefficient in establishing a government agency to be responsible for policy-making and consumer law enforcement, where principles of legality, independence, transparency and responsibility should be embraced (Ottow, 2015: 123), this in addition to the principle of procedural fairness.

Essentially, the Consumer Protection Law of Timor-Leste seems to have missed the point: it was based on the administrative model, although institutional design was not appropriately addressed.

Annetje Ottow when discoursing about the principles that should guide the creation of an agency, observed that “... principles of good agency behaviour enable substantive rules to be applied appropriately; in other words, they govern the proper application of substantive rules. To have such effect, the principles have to be embedded in the agency’s design and philosophy and subsequently in concrete actions... Such good agency principles and characteristics also have consequences for the indicators and factors used to measure and assess agencies” (Ottow, 2015: 123).

In this same direction, Jenny highlighted that ‘institution building is an art rather than a science when it comes to design of competition authorities.’ In accordance with the scholar, this circumstance happens given the number of complexities of the trade-offs involved, highlighting the fact that there is no ideal model that fits in all situations, reason why such authorities, when in process of creation, have to be tailored-fit (Jenny, 2016: 1).

Clearly, a well-designed agency, created in accordance with the domestic circumstances, could systematically promote consumer protection in the Timorese jurisdiction. As that is not the case, it is important, now, to think of alternatives through which the current Consumer Protection Act could be efficiently enforced.

As previously referred, statutory authority was granted to both the Prosecution Office or the Public Defender Office to promote actions and legal procedures to protect consumers, but either do not replace the function of a Consumer Authority. Also, AIFAESA, as exhaustively underpinned, was established basically at the same time the Consumer Act was enacted. However, the Law did not grant to this Authority powers an institution shall have to effectively promote consumer protection. Namely, issuance of administrative rules at the same time such Authority is invested with powers to investigate a consumer-related matter, decide it and apply a decision, fairly and independently.

Looking at the existing sectoral-statutes in place, namely to the Decree-Law n.º 15/2012, which established the National Communications Authority, it is clear that Timor-Leste adopted the administrative model, where the regulator could promote both investigatory and decision-making powers. This happened particularly because Timorese institutions were shaped based on the Indonesian/Portuguese civil law administrative tradition (Blum, Ferreiro-Rodrigues & Srivastava, 2019: 347). Nevertheless, even in this case, although the legal framework states that the Authority may determine the liability of offenders, the special legislation kept silent in regard to the application of remedies

(how and when). The same thing happens in regard to the Consumer Protection Law.

An alternative to address the matter in a short term would be to amend the Law that established AIFAESA, stating, clearly, the functions a consumer protection agency shall have to effectively investigate and adjudicate cases related to consumer protection. Of course, public servants allocated in this Authority will need to have in-depth capacity building to properly understand the mechanisms and procedures involved in investigating and adjudicating consumer rights cases. At the same time, duplication of functions between line ministries shall be eliminated. It is valid to mention, however, that such agency operates under the tutelage of the Coordinating Minister of Economic Affairs, when good practices suggest that Consumer Protection Agencies should be independent in order to act with authority and legitimacy (Lowe, 2008: 48), providing to consumers an effective protection without any political intervention. On the one hand, having the authority operating under the Coordinating Minister of Economic Affairs' Office would allow that proper resources would be allocated in order to ensure that public agents would receive the necessary capacities. And as AIFAESA already has financial autonomy granted by law, allocation of budget should not be, in practice, a constraint. This option could also reduce administrative burdens since the Law that established AIFAESA already provides a reasonable framework that allows collaboration and coordination of the authority with other agencies in regard to activities related to market surveillance. Such adjustment should not be an issue in itself even because, as well stated by Lowe (Lowe, 2008 : 11), 'institutions must

constantly assess and re-assess their mission, objectives, structures, processes and performance.’

At the same time, it could be considered the creation of mechanisms to support and strengthen consumer protection associations for their efficiency and coherence in consumer rights advocacy. Perhaps the establishment of an umbrella organ, where financial support and capacity building could be addressed, would be another sound alternative.

Finally, considering that a general law that regulates the Public Administrative Procedures (Decree-Law n.º 32/2008) provides that all decisions taken by any administrative body are appealable to the judicial system, it would be reasonable to think about the creation of a simplified system that could allow consumers to have their claims appreciated and decided in the quickest way possible.

Of course, talking on consumer rights, specifically, it is relevant to mention that Timor-Leste does not have a specialized court. And in case either the Public Defender or the Prosecution Office promotes legal actions on consumer matters, ordinary proceedings would take a long time to be appreciated and decided. The regular judicial system is often beyond their capacity to attend, timely and efficiently, actions proposed on the interests of consumers. For this reason, the establishment of a simplified mechanism inside the traditional civil court proceedings would be an efficient and sustainable option to address the lack of efficiency in this respect. The design of a simplified small claims court procedure where alternative dispute resolution (conciliation and mediation) is inserted as a preliminary step to resolve conflicts would ensure that consumers obtain a remedy

without the necessity to undertake the burden and cost an ordinary legal action would demand. Such an alternative could bring a faster solution for the existing problem, instead waiting for the transformation of AIFAESA into a proper Authority, as also suggested above. On this, and considering the constraints highly mentioned in this and in the previous section, it would be reasonable to assert that a simplified judicial system could, for now, remedy the situation.

5. Conclusion

Since 2016, to achieve its political and economic agenda following the application for ASEAN and WTO accession, Timor-Leste has been strongly committed to legal and institutional reforms. Many legislations have been created, inspired by the European regime. The Consumer Protection Law, enacted in 2016, is one of them. However, the inexistence of a specialized authority, accountable for policy-making and law enforcement on consumer protection, remains, somehow, problematic. This research discussed some factors to be considered during the drafting process of competition and consumer protection policies, concluding that transplanted legislations are inefficient if there is no institution properly established to implement them.

Fortunately, Timor-Leste, a new nation, where provisions covering consumer protection and institutions are yet in process of creation, can still make room for improvement of the current legal framework. Some lessons learned that may turn eventual (and necessary) adjustments successful are: First, the establishment and determination of competencies of an institution shall be based on sound law, adjusted to the

peculiarities the country embraces. Secondly, the enforcement system shall be designed having in mind some political, institutional and economic characteristics, ensuring, consequently, transparency in regard to decisions to be made and predictability for businesses.

Lastly, the relation of the Consumer Protection Authorities with other governmental bodies shall be well defined in the proposed legal framework. On this, an analysis of the approach taken by countries that integrate the ASEAN regional block would be helpful.

Nevertheless, the creation of a simplified mechanism inside of the judicial system (like small claim procedures) to promote consumers' rights would eventually address the urgent need for a system that could provide a quicker response to consumers.

Meanwhile, consumer organizations could also have their competence increased, being allowed to represent consumers interests in private singular or collective action lawsuits. This is a circumstance the current legislation does not allow.

Finally, the functions a consumer protection agency shall have to effectively investigate and adjudicate cases related to consumer protection could be delegated to the existing agency for inspections and control of economic, sanitary and food activities, AIFAESA (something that should go beyond what is stated in the order n.º 079/2017/VI/PM). This alternative, in a medium and long run, could allow Timor-Leste to have, perhaps, its first Consumer Protection Authority.

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- Decree-Law n.º 15/2012, of 28 of March, on the Regulation of the Telecommunications Services (Timor-Leste)

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C. Others

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