

Collective redress for consumers : Council adopts position at first reading

The collective defence of consumers' rights has come a step closer. Following the agreement reached with the European Parliament in June 2020, the Council today adopted its position at first reading on a draft directive on representative actions for the protection of the collective interests of consumers within the EU.



Thanks to the single market, EU consumers have so far enjoyed a broad choice of quality products, competitive prices and high safety standards. Today's agreement paves the way for granting consumers throughout the EU the right to seek effective judicial protection collectively when traders harm consumers by violating EU laws.

Christine Lambrecht, German Federal Minister of Justice and Consumer Protection

The directive requires member states to put in place a system of representative actions for the protection of consumers' collective interests against infringements of Union law. It covers actions for both injunctions and redress measures.

It empowers qualified entities designated as such by member states to seek injunctions and/or redress, including compensation or replacement, on behalf of a group of consumers that has been harmed by a trader who has allegedly infringed one of the EU legal acts set out in the annex to the directive. These legal acts cover areas such as financial services, travel and tourism, energy, health, telecommunications and data protection.

The directive distinguishes between qualified entities entitled to bring actions in the member state where they have been designated (domestic representative actions) and those entitled to bring actions in any other member state (cross-border representative actions). For domestic actions a qualified entity will have to fulfil the criteria set out in the law of its member state of designation, whereas for cross-border actions it will have to fulfil the harmonised criteria set out in the directive.

As a safeguard against abusive litigation, the directive provides clear rules on the allocation of judicial costs in a representative action for redress based on the 'loser pays' principle. Furthermore, with a view to avoiding conflicts of interest, it imposes on qualified entities a number of

transparency requirements, in particular as regards their funding by third parties.

The directive will apply to representative actions brought on or after the date of its application.

Next steps

In line with the early second reading agreement reached last June, the European Parliament should approve the Council's position at first reading before the end of the year. The directive will then be deemed to have been formally adopted. It shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. Member states will have 24 months from the entry into force of the directive to transpose it into national law, as well as an additional 6 months to start applying these provisions.

Background

The directive was proposed by the Commission in April 2018 as part of the Commission's 'New deal for consumers' package, which aimed to ensure fair and transparent rules for EU consumers. The directive on the better enforcement and modernisation of EU consumer protection rules, which was also proposed under the same package, was adopted on 27 November 2019.