

European Parliament and Council Reach Political Agreement on EU Collective Representative Actions



On 22 June 2020, the European Parliament (the **EP**) announced that it reached a political agreement with the Council of the European Union (the **Council**) on the final text of the Directive on representative actions for the protection of the collective interests of consumers (the **Collective Representative Actions Directive**) (See [here](#), [here](#) and [here](#)). This agreement is the result of [interinstitutional negotiations that started on 9 January 2020](#).

The Collective Representative Actions Directive will introduce harmonised rules that aim to facilitate redress for consumers in case of widespread infringements of their rights in more than one EU Member State, while at the same time provide safeguards against abusive recourses. Collective representative actions will enable consumers to seek redress in a wide range of areas such as general consumer law, data protection, financial services, travel and tourism, energy, telecommunications, environment and health or train passenger rights.

Each EU Member State will have to provide for at least one representative action procedure for injunction and redress measures which will make representative actions possible both at the European and at the national level. To that end, EU Member States will have to designate at least one qualified entity (organisation or public entity) that will initiate proceedings on behalf of groups of consumers.

Entities that will handle cross-border cases will have to satisfy three harmonised criteria. First, the entities must demonstrate 12 months of prior activity in protecting consumers' interest. Second, the entities must have a non-profit making character. Third, they must not be influenced by third parties who have economic interests opposed to those of consumers. By contrast, EU Member States will have leeway to determine the designation criteria for entities in charge of domestic cases, provided that these criteria are consistent with the objectives of the Collective Representative Actions Directive.

Importantly, in order to protect businesses from abusive lawsuits, the negotiators agreed on the introduction of a "*loser pays principle*", according to which the defeated party will have to pay the costs of the proceedings to the winning party. Furthermore, courts and administrative authorities will have the power to dismiss manifestly unfounded actions at the earliest possible stage of the proceedings.

Finally, according to the negotiators, the Commission will have to consider the opportunity of creating a European Ombudsman for collective redress who will hold the role of handling cross-border collective actions at the European level.

The EP and the Council now have to formally approve the political agreement. The Collective Representative Actions Directive will enter into force 20 days after its publication in the Official Journal of the European Union. Following its

entry into force, Member States will have 24 months to transpose the text of the Directive into their national laws and an additional six months to apply the new rules.

The press release of the EP is available [here](#).

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