

Representative actions for the protection of collective interests of consumers

As part of efforts to improve compliance with consumer protection rules, the European Commission has proposed a directive on representative actions for the protection of collective interests of consumers. The proposal, presented as part of the 'New Deal for Consumers', aims to enable consumers across the EU to use representative actions to demand compensation from companies that infringe their rights. The European Parliament is expected to vote on its first-reading position during the March II plenary session.

Background

When the rights of a large number of consumers are violated, it is more efficient if they can join forces to launch a representative action before a court or an administrative body. However, rules on such actions are not harmonised across the EU. A 2018 [report](#) showed that only 19 EU Member States have compensatory collective redress in place. That report also warned of vast differences in the way such representative actions work across the EU. The 2009 [Injunctions Directive](#) requires Member States to have procedures for representative actions whose aim is to stop or ban harmful practices, but not to require compensation for consumers. In 2013, however, the Commission issued a [recommendation](#) that representative actions should be available for compensation too.

European Commission proposal

On 11 April 2018, the Commission adopted a [proposal](#) to harmonise provisions in this area to ensure equal consumer protection across the EU. Representative actions would be possible for infringements of a much wider body of law than at present, including horizontal consumer legislation and sector-specific laws in the field of financial services, energy, telecommunications, health and environment. Member States would be required to have procedures not only for injunction orders to stop or prohibit a practice, but also measures for redress, such as compensation, repair, replacement, price reduction, contract termination and reimbursement. Collective actions could be brought not by law firms, as in the United States, but by qualified entities which have been duly authorised in that regard.

European Parliament position

Parliament's Legal Affairs Committee (JURI) adopted its [report](#) on 6 December 2018. The committee suggested that each Member State should be required to name at least one qualified entity that could bring representative actions. Qualified representative entities would be required to disclose publicly how they are financed, organised and managed. The report also suggests explicitly prohibiting punitive damages and fees for lawyers that are paid only if a case is won (contingency fees). Within three years, the Commission would be required to assess if there is a need to establish a European ombudsman for collective redress.

Although the committee's mandate to enter interinstitutional negotiations with the Council was confirmed in plenary in December 2018, as Council has not yet reached a general approach, Parliament will vote on its first-reading position during the March II plenary session.

First-reading report: [2018/0089\(COD\)](#); Committee responsible: JURI; Rapporteur: Geoffrey Didier (EPP, France).

