First EU collective redress mechanism to protect consumers

- First-ever EU-wide rules on collective redress
- Consumers to be better protected in “mass harm” situations such as Dieselgate, Ryanair
- Safeguards against abusive lawsuits (“loser pays principle”)

Rules allowing groups of consumers harmed by illegal practices to launch collective actions and seek compensation were approved by Legal Affairs Committee.

Currently, only 19 member states provide some form of legal remedy to victims of mass harm and proceedings can often be lengthy and costly, especially if victims go to court individually.

The new rules address concerns raised by recent mass harm scandals with cross-border implications (Dieselgate, Ryanair). They would allow group action against trader violations with a broad public impact in domestic and cross-border cases in different consumer areas such as data protection, financial services, travel and tourism, energy, telecommunications, environment and health.

The new representative action rules would:

- strengthen the right to access to justice by allowing consumers to join forces across borders and jointly request unlawful practices to be stopped or prevented, or to obtain compensation for the harm;
- harmonise collective redress mechanisms and end disparities across member states;
- reduce the financial burden and make remedies more accessible through collective representation;
- strike a balance between citizens’ access to justice and protecting businesses from abusive lawsuits.

Eligible representation and safeguards

Under the new draft rules, representative action can only be brought by eligible entities, such as consumer organisations and certain independent bodies designated by member states. These should, *inter alia*, be non-profit and have no financial agreements with law firms.
MEPs also introduced the so-called “loser pays principle” to deter potential frivolous action and encourage justified collective action.

Quote

"The Dieselgate scandal was a turning point for Europe. We must urgently act to protect consumers. Today’s vote was a major step and a first victory for them" said the rapporteur Geoffroy Didier (EPP, FR).

"In some countries, large companies resort to commercial private entities only to disrupt their competition. The text we backed today will protect us from the abuse seen in American class action suits; it will ensure fair access to justice for consumers and protect business from abusive lawsuits," he added.

Next steps

The draft report was approved by 19 votes to none, with 3 abstentions. The committee also approved a mandate to start talks with EU Ministers as soon as the latter adopt their position and Parliament as a whole gives its green light.

Background

The Representative Action Directive is a part of the New Deal for Consumers, launched in April 2018 by the European Commission, which aims to ensure stronger consumer protection in the EU. It includes stronger consumer rights online, tools for enforcement of rights and compensation, penalties for violating EU consumer law and improved business conditions.

Currently, the Injunctions directive allows a court or an administrative authority to stop a practice violating consumer rules. However, such injunctions do not give harmed consumers the option of obtaining redress or compensation at the same time.

Compensatory collective redress is available in 19 member states, but in over half of them it is limited to specific sectors, mainly to consumer claims. At the same time, nine countries do not provide the option to collectively claim compensation in mass harm situations. Only six member states have a proper alternative dispute mechanism focused on mass harm situations: Belgium, France, Italy, the Netherlands, Spain and the United Kingdom.
Further information
Procedure file

Interview with Rapporteur Geoffroy Didier and extracts from vote (06.11.2016)
Rapporteur Geoffroy Didier (EPP, France)

Draft report

Study commissioned by Policy Department for Citizens' Rights and Constitutional Affairs:
Collective redress in member states of the EU
European commission fact sheet: Collective redress

Committee on Legal Affairs

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