AMENDMENTS
1 - 70

Draft report
Klaus-Heiner Lehne
(PE467.330v01-00)

Towards a Coherent European Approach to Collective Redress
(2011/2089(INI)
Amendment 1
Eva Lichtenberger

Motion for a resolution
Citation 2 a (new)

Motion for a resolution
Amendment
- having regard to Directive 2009/22/EC
on injunctions for the protection of
consumers' interests,

Or. en

Amendment 2
Eva Lichtenberger

Motion for a resolution
Citation 5 a (new)

Motion for a resolution
Amendment
- having regard to its resolution of 20
January 2011 on the 2009 Report on
Competition Policy,

Or. en

Amendment 3
Eva Lichtenberger

Motion for a resolution
Citation 6 a (new)

Motion for a resolution
Amendment
- having regard to the 2010 Monti report
on a new strategy for the single market,

Or. en

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Amendment 4
Derk Jan Eppink

Motion for a resolution
Recital A a (new)

Amendment

Aa. whereas it is important that citizens or companies can claim compensation when they suffer individual damage or loss as a result of unlawful business practices,

Or. en

Amendment 5
Derk Jan Eppink

Motion for a resolution
Recital A b (new)

Amendment

Ab. whereas economic analysis of law suggests that class actions consolidate litigation to achieve economies of scale and provide an appropriate legal remedy for small injuries that are large on aggregate,

Or. en

Amendment 6
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Recital B a (new)

Amendment

Ba. whereas the benefits of the ADR method are undisputed, fair access to
justice should remain available to all EU citizens,

Amendment 7
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Recital Bb (new)

Motion for a resolution  
Amendment

Bb. whereas, according to the Flash Eurobarometer on "Consumer attitudes towards cross-border trade and consumer protection" of March 2011, 79% of European consumers state that they would be more willing to defend their rights in court if they could join a collective action,

Amendment 8
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Recital C

Motion for a resolution  
Amendment

C. whereas national and European authorities play a pivotal role in the enforcement of EU law, and private enforcement can only supplement, but not replace, public enforcement,

C. whereas national and European authorities play a pivotal role in the enforcement of EU law, and private enforcement should only supplement, but not replace, public enforcement,

Amendment 9
Derk Jan Eppink
Motion for a resolution
Paragraph 2

2. Notes the efforts made by the US Supreme Court to limit frivolous litigation and the abuse of the US class action system, and stresses that Europe must refrain from introducing a US-style class action system or any system which would lend itself to similar abuse;

Amendment

2. Notes the efforts made by the US Supreme Court to limit frivolous litigation and the abuse of the US class action system;

Or. en

Amendment 10
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 2

Motion for a resolution

2. Notes the efforts made by the US Supreme Court to limit frivolous litigation and the abuse of the US class action system, and stresses that Europe must refrain from introducing a US-style class action system or any system which would lend itself to similar abuse;

Amendment

2. Notes the efforts made by the US Supreme Court to limit frivolous litigation and the abuse of the US class action system, and stresses that Europe must refrain from introducing a US-style class action system or any system which does not respect European legal traditions;

Or. en

Amendment 11
Eva Lichtenberger

Motion for a resolution
Paragraph 3

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Motion for a resolution

3. Welcomes the efforts of Member States to strengthen the rights of victims of unlawful behaviour by introducing legislation aimed at facilitating redress while avoiding an abusive litigation culture; stresses in this context that the Commission has still not put forward convincing evidence that, pursuant to the principle of subsidiarity, action is needed at EU level in order to ensure that victims of unlawful behaviour are compensated for damage or loss;

Amendment

3. Welcomes the efforts of Member States to strengthen the rights of victims of unlawful behaviour by introducing legislation aimed at facilitating redress while avoiding an abusive litigation culture; welcomes the Commission's work towards a coherent European approach to collective redress and calls in this context on the Commission to come forward with sector-specific initiatives as in the fields of competition and consumer protection, where a specific need has been identified, as well as with a framework including minimum standards for an EU-consistent system;

Or. en

Amendment 12
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 3

Motion for a resolution

3. Welcomes the efforts of Member States to strengthen the rights of victims of unlawful behaviour by introducing legislation aimed at facilitating redress while avoiding an abusive litigation culture; stresses in this context that the Commission has still not put forward convincing evidence that, pursuant to the principle of subsidiarity, action is needed at EU level in order to ensure that victims of unlawful behaviour are compensated for damage or loss;

Amendment

3. Welcomes the efforts of Member States to strengthen the rights of victims of unlawful behaviour by introducing legislation aimed at facilitating redress while avoiding an abusive litigation culture; stresses that the current EU regulatory framework to put an end to infringements and encourage competition fails to allow for consumers to be compensated for the damages suffered;

Or. en
Amendment 13
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 3 a (new)

Motion for a resolution

Amendment

3a. Underlines the considerable benefits of collective judicial actions in terms of costs and legal certainty for the claimants, defendants and the judicial system alike by avoiding parallel litigation of similar claims;

Or. en

Amendment 14
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 3 b (new)

Motion for a resolution

Amendment

3b. Calls on the Commission to foster effective relief at EU level for consumers and SMEs by means of a EU-wide legal instrument on collective redress for both national and cross-border cases, on the basis of a set of common principles inspired by the EU legal tradition and the legal orders of the 27 Member States, consistent and parallel with specific sectoral legislative initiatives;

Or. en

Amendment 15
Eva Lichtenberger

Motion for a resolution
Paragraph 4
4. Reiterates that the Commission has still not indicated what legal basis it considers appropriate for any measures in the field of collective redress;  

Amendment 16  
Luigi Berlinguer, Bernhard Rapkay  
Motion for a resolution  
Paragraph 4  

4. Reiterates that the Commission has still not indicated what legal basis it considers appropriate for any measures in the field of collective redress;  

4. Considers that Art 114 TFEU would be the appropriate legal basis for any measures in the field of collective redress;  

Amendment 17  
Eva Lichtenberger  
Motion for a resolution  
Paragraph 5  

5. Notes that enforcement mechanisms already exist at EU level and believes that, in particular, Regulation No 861/2007 establishing a European Small Claims Procedure provides efficient and effective access to justice by simplifying cross-border litigation involving claims for a sum of less than EUR 2 000;  

5. Notes that enforcement mechanisms already exist at EU level and believes that, in particular, Regulation No 861/2007 establishing a European Small Claims Procedure provides efficient and effective access to justice by simplifying cross-border litigation involving claims for a sum of less than EUR 2 000;
Amendment 18
Derk Jan Eppink

Motion for a resolution
Paragraph 5

5. Notes that enforcement mechanisms already exist at EU level and believes that, in particular, Regulation No 861/2007 establishing a European Small Claims Procedure provides efficient and effective access to justice by simplifying cross-border litigation involving claims for a sum of less than EUR 2 000;

Amendment

5. Notes that enforcement mechanisms already exist at EU level and believes that, in particular, Regulation No 861/2007 establishing a European Small Claims Procedure provides efficient and effective access to justice by simplifying cross-border litigation involving claims for a sum of less than EUR 2 000;

Or. en

Amendment 19
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 5

5. Notes that enforcement mechanisms already exist at EU level and believes that, in particular, Regulation No 861/2007 establishing a European Small Claims Procedure provides efficient and effective access to justice by simplifying cross-border litigation involving claims for a sum of less than EUR 2 000;

Amendment

5. Notes that enforcement mechanisms that already exist at EU level, in particular, Regulation No 861/2007 establishing a European Small Claims Procedure intended to simplify cross-border litigation involving claims for a sum of less than EUR 2 000 are not designed to provide effective access to justice in cases where a large number of victims suffer the same damage;

Or. en

Amendment 20
Luigi Berlinguer, Bernhard Rapkay
Motion for a resolution
Paragraph 6

6. Takes the view that injunctive relief *plays* an important role in safeguarding rights which citizens and companies enjoy under EU law and believes that the mechanisms introduced under Regulation (EC) No 2006/2004 on Consumer Protection Cooperation*, as well as Directive 2009/22/EC on injunctions for the protection of consumer interests*, can be significantly improved so as to foster cooperation and injunctive relief in cross-border situations;

6. Takes the view that injunctive relief *could also play* an important role in safeguarding rights which citizens and companies enjoy under EU law and believes that the mechanisms introduced under Regulation (EC) No 2006/2004 on Consumer Protection Cooperation⁴, as well as Directive 2009/22/EC on injunctions for the protection of consumer interests⁵, can be significantly improved so as to foster cooperation and injunctive relief in cross-border situations;

Or. en

Amendment 21
Eva Lichtenberger

Motion for a resolution
Paragraph 6 a (new)

6a. Takes the view that the necessity to improve injunctive relief remedies is particularly great in the environmental sector; calls on the Commission to explore ways of enlarging Directive 2009/22 to the environmental sector and submit appropriate proposals within the next eighteen months;

Or. en

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⁵ OJ L 110, 1.5.2009, p. 30
Amendment 22
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 7

7. Considers that injunctive relief should focus on the protection of the individual interest and not the public interest, and calls for caution when widening access to justice for organisations since these should not enjoy easier access to justice than individuals;

Amendment
7. Considers that injunctive relief should focus both on the protection of the individual interest and the public interest;

Amendment 23
Diana Wallis

Motion for a resolution
Subheading 2

Horizontal instrument and safeguards

Amendment
Horizontal framework and safeguards

Amendment 24
Eva Lichtenberger

Motion for a resolution
Paragraph 8

8. Takes the view that disputes frequently cover different industry sectors and different areas of law and that victims of unlawful behaviour face the same difficulties in obtaining redress in different sectors, and is concerned that

Amendment
8. Believes that any proposal in the field of collective redress that would take the form of a horizontal instrument should include minimum standards for an EU-consistent system and should not preclude the adoption of sector-specific initiatives in
any EU initiatives in the field of collective redress will result in a fragmentation of national procedural and damages laws which will weaken and not strengthen access to justice within the EU; in the event that it is decided after due consideration that a Union scheme of collective redress is needed and desirable, asks that any proposal in the field of collective redress should take the form of a horizontal instrument providing uniform access to justice within the EU;

Amendment 25
Derk Jan Eppink

Motion for a resolution
Paragraph 8

Motion for a resolution

8. Takes the view that disputes frequently cover different industry sectors and different areas of law and that victims of unlawful behaviour face the same difficulties in obtaining redress in different sectors, and is concerned that any EU initiatives in the field of collective redress will result in a fragmentation of national procedural and damages laws which will weaken and not strengthen access to justice within the EU; in the event that it is decided after due consideration that a Union scheme of collective redress is needed and desirable, asks that any proposal in the field of collective redress should take the form of a horizontal instrument providing uniform access to justice within the EU;

Amendment

8. Takes the view that disputes frequently cover different industry sectors and different areas of law and that victims of unlawful behaviour in some sectors face specific difficulties in obtaining redress, believes that in those policy fields where specific difficulties exist, these should be addressed by specific EU initiatives, if a concrete need for EU action is identified; calls for specific measures to be adopted without further delay to address the specific issues arising, in the competition field, in particular with regard to collective redress that follows on from an infringement decision adopted by the Commission or a national competition authority; believes that horizontal difficulties faced by victims across all sectors could be addressed by a horizontal instrument, if the need for such EU action is identified;
Amendment 26
Sajjad Karim

Motion for a resolution
Paragraph 8

Motion for a resolution
8. Takes the view that disputes frequently cover different industry sectors and different areas of law and that victims of unlawful behaviour face the same difficulties in obtaining redress in different sectors, and is concerned that any EU initiatives in the field of collective redress will result in a fragmentation of national procedural and damages laws which will weaken and not strengthen access to justice within the EU; in the event that it is decided after due consideration that a Union scheme of collective redress is needed and desirable, asks that any proposal in the field of collective redress should take the form of a horizontal instrument providing uniform access to justice within the EU;

Amendment
8. Takes the view that disputes frequently cover different industry sectors and different areas of law and that victims of unlawful behaviour face the same difficulties in obtaining redress in different sectors, and is concerned that possible EU initiatives in the field of collective redress will result in a fragmentation of national procedural and damages laws which will weaken and not strengthen access to justice within the EU; in the event that it is decided after detailed consideration that initiatives in the field of collective redress are needed and desirable, considers that a sectoral approach would be the most appropriate method, accompanied by a non-binding framework outlining minimum standards and safeguards to be applied by Member States in the establishment or operation of redress mechanisms;

Or. en

Amendment 27
Diana Wallis

Motion for a resolution
Paragraph 8

Motion for a resolution
8. Takes the view that disputes frequently cover different industry sectors and different areas of law and that victims of unlawful behaviour face the same

Amendment
8. Takes the view that disputes frequently cover different industry sectors and different areas of law and that victims of unlawful behaviour face the same
difficulties in obtaining redress in different sectors, and is concerned that any EU initiatives in the field of collective redress will result in a fragmentation of national procedural and damages laws which will weaken and not strengthen access to justice within the EU; in the event that it is decided after due consideration that a Union scheme of collective redress is needed and desirable, asks that any proposal in the field of collective redress should take the form of a horizontal instrument providing uniform access to justice within the EU;

difficulties in obtaining redress in different sectors, and is concerned that uncoordinated EU initiatives in the field of collective redress will result in a fragmentation of national procedural and damages laws which will weaken and not strengthen access to justice within the EU; in the event that it is decided after due consideration that a Union scheme of collective redress is needed and desirable in a certain area, asks that any proposal in the field of collective redress should remain coherent with a wider, horizontal framework setting out standards for providing uniform access to justice via collective redress within the EU;

Amendment 28
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 8

Motion for a resolution

8. Takes the view that disputes frequently cover different industry sectors and different areas of law and that victims of unlawful behaviour face the same difficulties in obtaining redress in different sectors, and is concerned that any EU initiatives in the field of collective redress will result in a fragmentation of national procedural and damages laws which will weaken and not strengthen access to justice within the EU; in the event that it is decided after due consideration that a Union scheme of collective redress is needed and desirable, asks that any proposal in the field of collective redress should take the form of a horizontal instrument providing uniform access to justice within the EU;

Amendment

8. Takes the view that disputes frequently cover different industry sectors and different areas of law and that victims of unlawful behaviour face the same difficulties in obtaining redress in different sectors, and is concerned that any EU initiatives in the field of collective redress will result in a fragmentation of national procedural and damages laws which will weaken and not strengthen access to justice within the EU; in the event that it is decided after due consideration that a Union scheme of collective redress is needed and desirable, asks that any proposal in the field of collective redress should take the form of a horizontal legal instrument including a set of common principles providing uniform access to justice within the EU and specifically
dealing with all the breaches of consumers' rights regardless of the policy field;

Amendment 29
Sajjad Karim

Motion for a resolution
Paragraph 8 a (new)

Motion for a resolution Amendment

8a. Considers that the establishment of common principles could guide the development of collective redress systems in Member States, but stresses the need to take due account of the legal traditions of the individual Member States;

Amendment 30
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 8 a (new)

Motion for a resolution Amendment

8a. Believes that the current exploratory work on an EU scheme of collective redress should not cause further delays in adopting sector-specific legislative initiatives in the field of competition, environment or consumers' law;

Amendment 31
Sajjad Karim
Motion for a resolution
Paragraph 8 b (new)

**Motion for a resolution**

8b. Believes that in certain sectors, for example competition, EU action may be merited; however, cautions that sectoral initiatives must only be introduced where evidence of economic and other possible impacts demonstrates clearly a need for measures at the EU level; further believes that these measures should operate on the basis of cooperation and access of claimants to Member State systems, with such access being facilitated through the sharing of common principles and safeguards as set out in the framework;

Or. en

Amendment 32
Eva Lichtenberger

Motion for a resolution
Paragraph 9

**Motion for a resolution**

9. Stresses that any horizontal instrument must cover all aspects of obtaining damages collectively; further stresses that, in particular, procedural and international private-law issues must apply to collective actions in general irrespective of the sector concerned, whereas limited sectoral rules, dealing with matters such as the potential binding effect of decisions adopted by national competition authorities in the field of EU antitrust law, should be laid down, for instance, in a separate chapter of the horizontal instrument itself;

deleted

Or. en
Amendment 33
Sajjad Karim

Motion for a resolution
Paragraph 9

Motion for a resolution

9. Stresses that any horizontal instrument must cover all aspects of obtaining damages collectively; further stresses that, in particular, procedural and international private-law issues must apply to collective actions in general irrespective of the sector concerned, whereas limited sectoral rules, dealing with matters such as the potential binding effect of decisions adopted by national competition authorities in the field of EU antitrust law, should be laid down, for instance, in a separate chapter of the horizontal instrument itself;

Amendment

deleted

Or. en

Amendment 34
Derk Jan Eppink

Motion for a resolution
Paragraph 9

Motion for a resolution

9. Stresses that any horizontal instrument must cover all aspects of obtaining damages collectively; further stresses that, in particular, procedural and international private-law issues must apply to collective actions in general irrespective of the sector concerned, whereas limited sectoral rules, dealing with matters such as the potential binding effect of decisions adopted by national competition authorities in the field of EU antitrust law, should be laid down, for instance, in a separate chapter of the horizontal instrument itself;

Amendment

9. Stresses that any EU instrument on collective redress should be limited to introducing common minimum standards, in line with the principles of subsidiarity and proportionality; believes that the specific issues arising in the competition field should be laid down in separate competition-specific legislative instruments;
antitrust law, should be laid down, for instance, in a separate chapter of the horizontal instrument itself.

Amendment 35
Diana Wallis

Motion for a resolution
Paragraph 9

9. Stresses that any horizontal instrument must cover all aspects of obtaining damages collectively; further stresses that, in particular, procedural and international private-law issues must apply to collective actions in general irrespective of the sector concerned, whereas limited sectoral rules, dealing with matters such as the potential binding effect of decisions adopted by national competition authorities in the field of EU antitrust law, should be laid down, for instance, in a separate chapter of the horizontal instrument itself;

Amendment

9. Stresses that any horizontal framework must cover the core aspects of obtaining damages collectively; further stresses that, in particular, procedural and international private-law issues must apply to collective actions in general irrespective of the sector concerned, whereas limited sectoral rules, dealing with matters such as the potential binding effect of decisions adopted by national competition authorities in the field of EU antitrust law, should fall outside the scope of a horizontal framework;

Or. en

Amendment 36
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 9

9. Stresses that any horizontal instrument must cover all aspects of obtaining damages collectively; further stresses that, in particular, procedural and international private-law issues must apply to collective actions in general irrespective of the sector

Amendment

9. Stresses that any horizontal legally binding instrument must cover aspects of obtaining damages collectively; further stresses that, in particular, procedural and international private-law issues must apply to collective actions in general irrespective of the sector

Or. en
concerned, whereas limited sectoral rules, dealing with matters such as the potential binding effect of decisions adopted by national competition authorities in the field of EU antitrust law, should be laid down, for instance, in a separate chapter of the horizontal instrument itself; of the sector concerned;

Amendment 37
Eva Lichtenberger

Motion for a resolution
Paragraph 10

Motion for a resolution  Amendment

10. Believes that the individual damage or loss suffered plays a pivotal role when deciding to file an action, and takes the view that in line with Regulation No 861/2007 on a European Small Claims Procedure, collective redress under a horizontal instrument could be available where the value of each individual claim does not exceed EUR 2 000;

Amendment 38
Derk Jan Eppink

Motion for a resolution
Paragraph 10

Motion for a resolution  Amendment

10. Believes that the individual damage or loss suffered plays a pivotal role when deciding to file an action, and takes the view that in line with Regulation No 861/2007 on a European Small Claims Procedure, collective redress under a
horizontal instrument could be available where the value of each individual claim does not exceed EUR 2 000;

Amendment 39
Diana Wallis

Motion for a resolution
Paragraph 10

Motion for a resolution Amendment

10. Believes that the individual damage or loss suffered plays a pivotal role when deciding to file an action, and takes the view that in line with Regulation No 861/2007 on a European Small Claims Procedure, collective redress under a horizontal instrument could be available where the value of each individual claim does not exceed EUR 2 000;

Or. en

Amendment 40
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 10

Motion for a resolution Amendment

10. Believes that the individual damage or loss suffered plays a pivotal role when deciding to file an action, and takes the view that in line with Regulation No 861/2007 on a European Small Claims Procedure, collective redress under a horizontal instrument could be available where the value of each individual claim does not exceed EUR 2 000;

deleted

Or. en
Amendment 41
Derk Jan Eppink

Motion for a resolution
Paragraph 11

Motion for a resolution

11. Considers that collective action under a horizontal instrument should be permissible where the defendant and victims represented are not domiciled in the same Member State (cross-border dimension) and where the rights alleged to have been infringed are granted by EU legislation (infringement of EU law);

Amendment

deleted

Amendment 42
Eva Lichtenberger

Motion for a resolution
Paragraph 11

Motion for a resolution

11. Considers that collective action under a horizontal instrument should be permissible where the defendant and victims represented are not domiciled in the same Member State (cross-border dimension) and where the rights alleged to have been infringed are granted by EU legislation (infringement of EU law);

Amendment

11. Considers that collective action under a horizontal instrument should be permissible where the defendant and victims represented are not domiciled in the same Member State (cross-border dimension) or where the rights alleged to have been infringed are granted by EU legislation (infringement of EU law);

Amendment 43
Sajjad Karim
Motion for a resolution
Paragraph 11

11. Considers that collective action under a horizontal instrument should be permissible where the defendant and victims represented are not domiciled in the same Member State (cross-border dimension) and where the rights alleged to have been infringed are granted by EU legislation (infringement of EU law);

Amendment

11. Considers that such sectoral measures creating links between Member State collective redress systems could successfully facilitate access to justice where the defendant and victims represented are not domiciled in the same Member State (cross-border dimension);

Or. en

Amendment 44
Diana Wallis

Motion for a resolution
Paragraph 11

11. Considers that collective action under a horizontal instrument should be permissible where the defendant and victims represented are not domiciled in the same Member State (cross-border dimension) and where the rights alleged to have been infringed are granted by EU legislation (infringement of EU law);

Amendment

11. Considers that EU collective redress instruments would deliver most benefit in cases where the defendant and victims represented are not domiciled in the same Member State (cross-border dimension); however, considers that it may also be beneficial in cases of infringements of national law which may have large, cross-border implications;

Or. en

Amendment 45
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 11
11. Considers that collective action under a horizontal instrument should be permissible where the defendant and victims represented are not domiciled in the same Member State (cross-border dimension) and where the rights alleged to have been infringed are granted by EU legislation (infringement of EU law); and in case of national infringements;

Amendment 46
Sajjad Karim

Motion for a resolution
Paragraph 12 – introductory part

12. Reiterates that safeguards have to be put in place in order to avoid unmeritorious claims and misuse of a horizontal instrument, so as to guarantee equality of arms in court proceedings, and stresses that such safeguards must cover, inter alia, the following points:

Amendment

12. Considers that any framework or sectoral measure must include the introduction of safeguards in order to avoid unmeritorious claims and misuse of collective redress mechanisms, so as to guarantee equality of arms in court proceedings, and stresses that such safeguards must cover, inter alia, the following points:

Amendment 47
Diana Wallis

Motion for a resolution
Paragraph 12 – introductory part

12. Reiterates that safeguards have to be...
put in place in order to avoid unmeritorious claims and misuse of a horizontal instrument, so as to guarantee equality of arms in court proceedings, and stresses that such safeguards must cover, inter alia, the following points:

-- only a representative body may bring an action on behalf of a clearly identified group, and identification of the group members must have taken place before the claim is brought ('opt-in procedure');

-- there must be a clearly identified group, and identification of the group members must have taken place before the claim is brought for opt-in procedures;

-- the judge should maintain discretionary powers on the admissibility of collective damage claims;

Amendment 49
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 12 – indent 1 (new)

Motion for a resolution
Amendment

-- only a representative body may bring an action on behalf of a clearly identified group, and identification of the group members must have taken place before the claim is brought ('opt-in procedure');

-- there must be a clearly identified group, and identification of the group members must have taken place before the claim is brought for opt-in procedures;

-- the judge should maintain discretionary powers on the admissibility of collective damage claims;
Motion for a resolution

– only a representative body may bring an action on behalf of a clearly identified group, and identification of the group members must have taken place before the claim is brought (‘opt-in procedure’);

Amendment

– representative bodies may bring an action on behalf of a clearly identified group;

Amendment 51
Diana Wallis

Motion for a resolution
Paragraph 12 – indent 1 a (new)

Motion for a resolution

- Member States should ensure that any potential collective action undergoes a preliminary admissibility check to confirm that the qualifying criteria have been met and that the action is fit to proceed; suggests that this check could be performed by a judge, ombudsman, or another independent, quasi-judicial body;

Amendment

- Member States should designate organisations qualified to bring representative actions, and European criteria are needed which clearly define these qualified entities; these criteria could be based on Article 3 of Directive 2009/22/EC on injunctions for the protection of consumer interests but need

Amendment 52
Derk Jan Eppink

Motion for a resolution
Paragraph 12 – indent 2

Motion for a resolution

– Member States should designate organisations qualified to bring representative actions, and European criteria are needed which clearly define these qualified entities; these criteria could be based on Article 3 of Directive 2009/22/EC on injunctions for the protection of consumer interests but need
to be further specified in order to ensure that abusive litigation is avoided; such criteria should cover, inter alia, the financial and human resources of qualifying organisations;

to be further specified in order to ensure that abusive litigation is avoided *while facilitating access to justice for citizens and companies*; such criteria should cover, inter alia, the financial and human resources of qualifying organisations;

Or. en

Amendment 53
Diana Wallis

Motion for a resolution
Paragraph 12 – indent 2

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Motion for a resolution

– Member States should designate organisations qualified to bring representative actions, and European criteria *are needed which* clearly define these qualified entities; these criteria could be based on Article 3 of Directive 2009/22/EC on injunctions for the protection of consumer interests* but need to be further specified in order to ensure that abusive litigation is avoided; such criteria should cover, inter alia, the financial and human resources of qualifying organisations;

Amendment

– Member States should *also be able to* designate organisations qualified to bring representative actions *without requiring an admissibility check; suggests that* European criteria *would be useful to* clearly define these qualified entities; these criteria could be based on Article 3 of Directive 2009/22/EC on injunctions for the protection of consumer interests* but need to be further specified in order to ensure that abusive litigation is avoided; such criteria should cover, inter alia, the financial and human resources of qualifying organisations;

Or. en

Amendment 54
Diana Wallis

Motion for a resolution
Paragraph 12 – indent 3

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Motion for a resolution

– an opt-out system *has to be rejected on the grounds that it is contrary to many Member States’ constitutions and violates the rights of any victim who might participate in the procedure unknowingly and yet would be bound by the court’s decision*;

Amendment

– an opt-out system *warrants careful consideration on the grounds that it offers efficiency and finality; calls for any proposal to take into account concerns over compatibility with Member States’ constitutions*;

Or. en

Amendment 55
Rolandas Paksas

Motion for a resolution
Paragraph 12 – indent 5

Motion for a resolution

– only the actual damage sustained may be compensated; punitive damages must be prohibited; by virtue of the concept of compensation the damages awarded must be distributed to individual victims in proportion to the harm they sustained individually; *by and large, contingency fees are unknown in Europe and must be rejected*;

Amendment

– only the actual damage sustained may be compensated; punitive damages must be prohibited; by virtue of the concept of compensation the damages awarded must be distributed to individual victims in proportion to the harm they sustained individually;

Or. It

Amendment 56
Derk Jan Eppink

Motion for a resolution
Paragraph 12 – indent 5

Motion for a resolution

– only the actual damage sustained may be compensated; *punitive damages must be prohibited*; by virtue of the concept of

Amendment

– *as a general rule*, only the actual damage sustained may be compensated; *compensatory damages can only be*
compensation the damages awarded must be distributed to individual victims in proportion to the harm they sustained individually; by and large, contingency fees are unknown in Europe and must be rejected; augmented with punitive damages when the defendant's behaviour is clearly proven to be malicious, oppressive, gross or fraudulent; by virtue of the concept of compensation the damages awarded must be distributed to individual victims in proportion to the harm they sustained individually; by and large, contingency fees are unknown in Europe and must be rejected;

Amendment 57
Diana Wallis

Motion for a resolution
Paragraph 12 – indent 5

Motion for a resolution

– only the actual damage sustained may be compensated: punitive damages must be prohibited, by virtue of the concept of compensation the damages awarded must be distributed to individual victims in proportion to the harm they sustained individually; by and large, contingency fees are unknown in Europe and must be rejected;

Amendment

– the horizontal framework should cover compensation only for the actual damage sustained: the framework should not cover punitive damages; by virtue of the concept of compensation the damages awarded must be distributed to individual victims in proportion to the harm they sustained individually; by and large, contingency fees are unknown in Europe and should not form part of the mandatory framework;

Amendment 58
Derk Jan Eppink

Motion for a resolution
Paragraph 12 – indent 6

Motion for a resolution

– collective claimants must not be in a

Amendment

– collective claimants must not be in a
better position than individual claimants, and each claimant must provide evidence for his claim; an obligation to disclose documents to the claimants (‘discovery’) is mostly unknown in Europe and must be rejected at European level;

better position than individual claimants, and each claimant must provide evidence for his claim; the incentive for abuse of an obligation to disclose documents to the claimants (‘discovery’) disappears if the claimant has to pay the defendant’s cost of compliance, thus internalising the full cost of the discovery request;

Or. en

Amendment 59
Diana Wallis

Motion for a resolution
Paragraph 12 – indent 6

Motion for a resolution

– collective claimants must not be in a better position than individual claimants, and each claimant must provide evidence for his claim; an obligation to disclose documents to the claimants (‘discovery’) is mostly unknown in Europe and must be rejected at European level;

Amendment

– collective claimants must not be in a better position than individual claimants with regard to access to evidence from the defendant, and each claimant must provide evidence for his claim; an obligation to disclose documents to the claimants (‘discovery’) is mostly unknown in Europe and should not form part of the mandatory framework;

Or. en

Amendment 60
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 12 a (new)

Motion for a resolution

12a. Recognises, however, that the opt-in system might entail higher costs for consumers organisations and therefore calls on the Commission to consider a flexible system which will allow the
largest number of victims to seek compensation, while respecting the existing European systems in line with the principle of subsidiarity but also the consumers' right to be duly informed so as to avoid their being automatically represented without their knowledge:

– Member States should designate organisations qualified to bring representative actions, and European criteria are needed which clearly define these qualified entities; these criteria could be based on Article 3 of Directive 2009/22/EC on injunctions for the protection of consumer interests but need to be further specified in order to ensure that abusive litigation is avoided; such criteria should cover, inter alia, the financial and human resources of qualifying organisations;

– a class action system has to be rejected on the grounds that it is contrary to many Member States’ legal orders and violates the rights of any victim who might participate in the procedure unknowingly and yet would be bound by the court’s decision;

– victims must in any case be free to seek the alternative of individual compensatory redress before a competent court;

– only the actual damage sustained may be compensated: punitive damages must be prohibited; by virtue of the concept of compensation the damages awarded must be distributed to individual victims in proportion to the harm they sustained individually; by and large, contingency fees are unknown in Europe and must be rejected;

– collective claimants must not be in a better position than individual claimants, and each claimant must provide evidence for his claim; an obligation to disclose documents to the claimants (‘discovery’)
must remain under judicial scrutiny;
– there can be no action without financial risk and Member States are to determine their own rules on a fair allocation of costs according to which the unsuccessful party must bear the costs of the other party;
– the Member States should set out any conditions or guidelines on the funding of damages claims;

Amendment 61
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 13

<table>
<thead>
<tr>
<th>Motion for a resolution</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>13. Stresses that many of the infringements of Union law identified by the Commission in the field of EU consumer protection measures call for the strengthening of injunctive relief, and asks the Commission to identify the EU legislation in respect of which it is difficult to obtain compensatory redress;</td>
<td>13. Stresses that many of the infringements of Union law identified by the Commission in the field of EU consumer protection measures call for the strengthening of injunctive relief, while acknowledging that injunctive relief is not sufficient when victims have suffered damage and have the right to compensation;</td>
</tr>
</tbody>
</table>

Amendment 62
Eva Lichtenberger

Motion for a resolution
Paragraph 14

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8 Study regarding the problems faced by consumers in obtaining redress for infringements of consumer protection legislation, and the economic consequences of such problems, Part I, Main report, 26.08.2008, p. 21 ff.
14. Considers that this legislation should be identified so as to allow the horizontal instrument to provide for collective compensatory redress for breach of this legislation, as well as for breach of EU antitrust law; calls for the relevant EU legislation to be listed in an annex to the horizontal instrument;
compensatory redress for breach of this legislation, as well as for breach of EU antitrust law; calls for the relevant EU legislation to be listed in an annex to the horizontal instrument; collective compensatory redress, as well as for breach of EU antitrust law;

Amendment 65
Diana Wallis

Motion for a resolution
Paragraph 15

Motion for a resolution

15. Encourages the setting-up of ADR schemes at European level so as to allow fast and cheap settlement of disputes as a more attractive option than court proceedings, and calls for a legal obligation for the parties involved first to seek a collective consensual resolution of the claim before launching collective court proceedings; believes that the criteria developed by the Court should be the starting point for the establishment of this obligation;

Amendment

15. Encourages the setting-up of ADR schemes at European level so as to allow fast and cheap settlement of disputes as a more attractive option than court proceedings, and suggests that any authority performing the preliminary admissibility check for a collective action should also have the power to order the parties involved first to seek a collective consensual resolution of the claim before launching collective court proceedings; believes that the criteria developed by the Court should be the starting point for the establishment of this power;

Amendment 66
Luigi Berlinguer, Bernhard Rapkay

Motion for a resolution
Paragraph 15 a (new)

9 Judgment of 18/03/2010 in Joined Cases C-317/08, C-318/08, C-319/08 and C-320/08, Alassini, not yet reported in the ECR.
Motion for a resolution

Amendment

15a. Notes that ADR mechanisms often depend on the trader's willingness to cooperate and the availability of an effective judicial redress system would act as a strong incentive for parties to agree on out-of-court settlement, which is likely to avoid a considerable number of cases, thereby avoiding litigation;

Or. en

Amendment 67
Sajjad Karim

Motion for a resolution
Paragraph 16

Motion for a resolution

16. Stresses that a horizontal instrument should itself lay down rules to prevent a rush to the courts (‘forum shopping’) and believes that forum shopping cannot be excluded by establishing that the courts where the majority of victims of the infringement of Union law are domiciled or where the major part of the damage occurred are to have jurisdiction, as these flexible rules would leave open the possibility of abusive litigation; considers therefore that the courts with jurisdiction in the place where the defendant is domiciled should have jurisdiction;

Amendment

16. Stresses that any measures addressing collective action in a sector should lay down rules to prevent a rush to the courts (‘forum shopping’) and believes that forum shopping cannot be excluded by establishing that the courts where the majority of victims of the infringement of Union law are domiciled or where the major part of the damage occurred are to have jurisdiction, as these flexible rules would leave open the possibility of abusive litigation; considers therefore that the courts with jurisdiction in the place where the defendant is domiciled should have jurisdiction;

Or. en

Amendment 68
Diana Wallis
Motion for a resolution
Paragraph 16

16. Stresses that a horizontal instrument should itself lay down rules to prevent a rush to the courts (‘forum shopping’) and believes that forum shopping cannot be excluded by establishing that the courts where the majority of victims of the infringement of Union law are domiciled or where the major part of the damage occurred are to have jurisdiction, as these flexible rules would leave open the possibility of abusive litigation; considers therefore that the courts with jurisdiction in the place where the defendant is domiciled should have jurisdiction;

Amendment

16. Stresses that a horizontal framework should itself lay down rules to prevent a rush to the courts (‘forum shopping’) whilst not jeopardising access to justice; and that Brussels I should be taken as a starting point for determining the courts with jurisdiction;

Amendment 69
Sajjad Karim

Motion for a resolution
Paragraph 17

17. Also favours a horizontal instrument that provides for unified rules on the applicable law and calls for further examination of how the conflict-of-law rules can be amended; believes that one solution could be to apply the law of the place where the majority of the victims are domiciled, bearing in mind that individual victims should remain free not to pursue the opt-in collective action but instead to seek redress individually in accordance with the general rules of private international law laid down in the Brussels I, Rome I and Rome II regulations;

Amendment

17. Calls for further examination of how the conflict-of-law rules can be amended; believes that one solution could be to apply the law of the place where the majority of the victims are domiciled, bearing in mind that individual victims should remain free not to pursue the opt-in collective action but instead to seek redress individually in accordance with the general rules of private international law laid down in the Brussels I, Rome I and Rome II regulations;
Amendment 70
Diana Wallis

Motion for a resolution
Paragraph 17

17. Also favours a horizontal instrument that provides for unified rules on the applicable law and calls for further examination of how the conflict-of-law rules can be amended; believes that one solution could be to apply the law of the place where the majority of the victims are domiciled, bearing in mind that individual victims should remain free not to pursue the opt-in collective action but instead to seek redress individually in accordance with the general rules of private international law laid down in the Brussels I, Rome I and Rome II regulations;

Amendment

17. Also favours that the horizontal framework provides guidelines for unified rules on the applicable law and calls for further examination of how the conflict-of-law rules can be amended; believes that one solution could be to apply the law of the place where the majority of the victims are domiciled, bearing in mind that individual victims should remain free not to pursue the opt-in collective action but instead to seek redress individually in accordance with the general rules of private international law laid down in the Brussels I, Rome I and Rome II regulations;

Or. en