

WHAT IS MISSING FOR COLLECTIVE REDRESS TO DELIVER FOR CONSUMERS?

Only a few consumers go to court when they have suffered from illegal commercial practice, as they expect the proceedings to be lengthy and risky. The 2020 EU Representative Actions Directive (RAD) was a breakthrough to help consumers go to court together. It requires all EU countries to have at least one collective redress mechanism for consumers.

Despite some Member States being late transposing the Directive (as of October 2025, Bulgaria and Spain were still to do it), consumer organisations have started using this new tool to seek compensation for groups of consumers. Several BEUC members can do so as 'qualified entities', as well as BEUC itself.

Yet rolling out the Directive at national level is only a first step. This checklist sets out five key areas that EU and national policymakers need to tackle for collective redress to be effective.

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1

ENSURE ADEQUATE FUNDING FOR COLLECTIVE ACTIONS

Without reliable funding, consumer organisations cannot bring mass-harm cases to court, as costs can rapidly run into millions of euros. To avoid costs being a deterrent, national governments should provide public funding. Examples include structural support to consumer organisations, special legal aid schemes, or dedicated collective action funds financed by infringing companies' fines or unclaimed damages.

While public funding remains essential, private financing should be available where it can, without diminishing consumer benefits. As such, to complement public schemes, all Member States should explicitly enable private funding mechanisms, including third-party litigation funding respecting independence and transparency conditions set by the RAD.

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2

MODERNISE EU PRIVATE INTERNATIONAL LAW RULES

Current EU rules were designed with only two parties in mind and overlook collective cases involving consumers in several Member States. Today it is unclear which court is competent, and defendants often challenge representative actions on jurisdictional grounds, further delaying proceedings and compensations for harmed consumers for years.

The rules on jurisdiction and the recognition and enforcement of judgments (laid down in Regulation 1215/2012, 'Brussels I bis') need to include specific rules for representative actions. The Regulation must allow consumer organisations to bring cases in the court of the represented consumers' domicile and ensure that non-EU defendants fall under the same rules. In addition, EU law should be revised so that courts can apply the law of the country where the case is brought, instead of multiple national laws. Currently, the obligation to analyse foreign laws makes proceedings longer and more expensive.

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3

SHIFT THE BURDEN OF PROOF AND EASE ACCESS TO EVIDENCE

In collective redress cases, information needed to substantiate claims often lies in the hands of the defendant. This restricted access makes it difficult for consumers and consumer organisations to substantiate their claims. Although the RAD allows courts to order disclosure, case law often requires claimants to identify the exact document the defendant should disclose. It should therefore be clarified that existing rules already enable courts to order disclosure of categories of evidence, not only individual documents.

Rules should also clarify that judges must be able to shift the burden of proof to the defendant where information asymmetry is evident. This means that if a company refuses to disclose evidence, courts should be able to presume that the missing information would support the consumers' case.

4

FACILITATE COLLECTIVE REDRESS FOR NON-MATERIAL HARM

Mass harm often causes immaterial losses such as loss of privacy or psychological harm. Yet the RAD is silent on whether compensation for such damage can be claimed collectively or how to quantify it. This creates legal uncertainty and risks leaving consumers without redress for harms widespread in today's digital economy. It should be made clear that representative actions are suitable for claiming compensation on behalf of consumers who have suffered purely non-material harm. Judges should be explicitly enabled to award lump-sum compensation – for example, uniform amounts per consumer or subgroup-based awards – without requiring everyone to prove their distress. Where differences are significant, additional compensation routes should remain available. This would ensure fair and workable outcomes for all consumers.

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5

BRIDGING PRIVATE AND PUBLIC ENFORCEMENT

Effective enforcement requires both private and public enforcement to work in tandem and be complementary. To facilitate such complementarity final decisions issued by public authorities could be treated as rebuttable presumptions in follow-on collective redress actions, meaning that infringements could be automatically recognised unless the traders can prove otherwise.

Finally, the [EC-REACT online platform](#), developed by the European Commission, could also become a valuable tool to strengthen the link between public and private enforcement.

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