FROM COLLECTIVE HARM TO REDRESS

what's new

Newsletter 6th issue, November 2025

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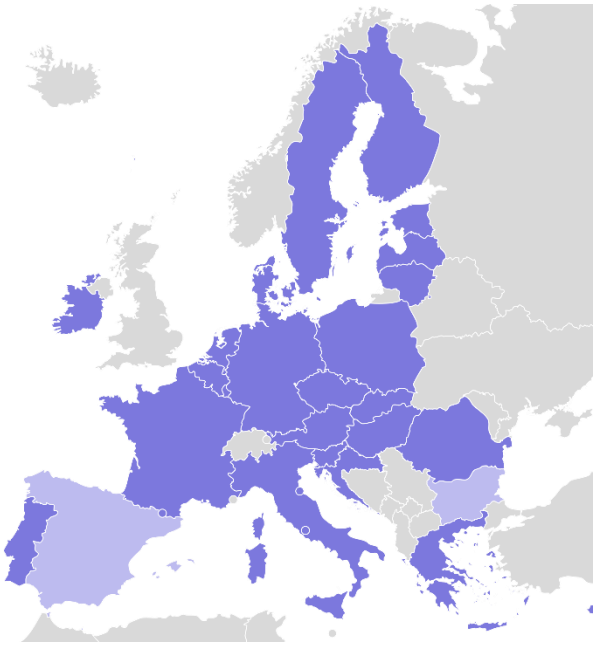
RAD roll-out

Implementation of the EU Directive on Representative Actions: what is the state of play?



Almost there! Only 2 countries have yet to complete the transposition of the Representative Actions Directive into their national laws. With the three-year mark since the transposition deadline of 25 December 2022 approaching in less than a month, progress is long overdue.

The latest country to complete the transposition is **Luxembourg**. The law was promulgated on 20 November and published in the Official Journal the following day. It entered into force on 25 November and applies to all actions started on or after 25 June 2023. The main features of the Luxembourgish transposition are presented in the next section.

How are the draft transposing laws progressing in the remaining two countries?

- **Bulgaria:** Bulgaria is likely to be the next country to finalise the RAD transposition. On 20 October, the Committee on Economic Policy and Innovation backed the latest bill and recommended its adoption at first reading. Although some parliamentary groups argued it does not fully meet the RAD's consumer-protection goals, the Plenary adopted it at first reading on 31 October. To date, discussions are still ongoing.
- **Spain:** no progress can be reported. By the end of November, the original 24 March deadline for tabling amendments to the latest draft law, published on 14 March, has been extended 28 times and currently stands at 3 December. We hope to be able to report more developments in the next issue of this newsletter in February 2026.

Best practices of national transposition

Focus on Luxembourg by Bob Schmitz (*Union Luxembourgeoise des Consommateurs* – ULC)

Five years were needed to adopt the first ever law on collective redress, adopted on 30 October 2025. Thirty-three opinions were tabled in Parliament, including seven from ULC, so the debate was intense. Parliament adopted the law unanimously, with a resolution requesting a Government report after five years on the number and nature of actions brought, the average duration of proceedings, results for consumers, the effectiveness of mediation, and difficulties encountered by the judiciary and qualified entities. As Luxembourg missed the RAD deadline, the law will apply retroactively to class actions launched after 25 June 2023. This means that ULC may take up infringements that harmed consumers before the publication of the law. It may be interesting to learn from pending cases in neighbouring countries whether the same harms merit a class action before the *Tribunal d'arrondissement de Luxembourg*.

The law has been criticised not only for being inexcusably late – largely due to the fierce objections of the Council of State on many procedural points – but also for limiting itself to the minimum required by RAD. This is true to a large extent, but it overlooks the law's particular attention to a voluntary and judicial mediation framework, which goes beyond the RAD's sole obligation of judicial homologation and enforceability of mediation agreements. A detailed chapter is dedicated to mediation, alongside chapters on judicial admissibility (inspired by Belgian law) and on the judgment of the defendants' liability (inspired by French law) if mediation fails.

We welcome that the mediation and the responsibility judgment follow the same patterns concerning e.g. opt-in/opt-out for affected consumers, deadlines, and the key role of the liquidator appointed by the court. Their costs will be borne by the companies concerned; they will assess the merits of documents submitted by consumers, prepare lists, and ensure remedies reach those affected. A major weakness concerns admissibility: following frustrating experience, the Belgian legislator introduced a six-month deadline for the admissibility judgment. Luxembourg does not follow this crucial amendment, so the first phase (including appeal) may undermine attempts to ensure smooth procedures.

Another disappointment is the law's scope, strictly limited to the Regulations and Directives listed in Annex I of RAD or added later, such as the Repair Directive. Many complaints received by ULC concern tenants and other housing or construction litigation. Except where unfair practices, credit or unfair contract terms are at stake, class actions will not be possible before the Luxembourg judge. The same applies to damages under competition law. The *Autorité de la concurrence* has been appointed as a qualified entity and confirmed its competence for collective actions under the DSA and DMA. However, it will not be possible to act collectively in Luxembourg regarding, for example, abuses of dominance under competition law.

What will this mean for ULC as a qualified entity? In line with RAD, any class action will be open to all consumers, whether members of our association or not. Costs for law firms and technical expertise will be borne by ULC unless the court rules otherwise in the liability judgment. If the opponent(s) agree to use the *Médiateur de la consommation* as mediator (one of the options under the law), their services will be free of charge (L. 422-7 *Code de la consommation*). As mentioned, the liquidator will take over the administrative burden for both mediation agreements and judgments at the defendants' expense. Similarly, defendants bear most communication costs. To lodge a class action, ULC will not need to collect a minimum number of complaints but must publicly communicate its intention to bring a case and keep the public informed. The Consumer Protection Ministry must also inform the public during the procedural stages.

Practice will show whether this preliminary assessment proves right.

This issue's focus: collective redress in the Netherlands after 5 years

A deep dive with Prof. Xandra Kramer (Erasmus University Rotterdam)

On 19 November, the first comprehensive evaluation of the Dutch collective actions regime under the *Wet afwikkeling massaschade in collectieve actie* (WAMCA) was published. Covering the period 2020–2025, the report examines how the reformed Dutch collective action mechanism has operated in practice since its entry into force on 1 January 2020. The evaluation analyses the statutory framework and legislative objectives of the WAMCA, reviews all registered and adjudicated cases to date, and gathers the experiences of legal professionals who work with the regime on a daily basis. In this context, we spoke to Xandra Kramer, professor of Private Law at Erasmus School of Law and leading expert in the field, who was also one of the authors of the report.

How would you summarise the WAMCA's performance after five years? To what extent has it achieved what the legislator intended?

The goal of the WAMCA was to introduce an effective and efficient procedure for handling representative collective actions, including mass harm claims for damages. Its introduction on 1 January 2020, expanded the existing collective action for injunctive and declaratory relief and the compensatory collective settlements (WCAM).

The performance over the last five years has been mixed. While professionals are overall positive about the introduction of the WAMCA, its efficiency and effectiveness should be improved. The key problem is that the procedure takes too long, in particular for collective actions to obtain compensation.

To secure the quality of the representative organisations – including *ad hoc* foundations – and to protect the interests of victims, rather stringent requirements for bringing such actions have been implemented. These requirements aim to secure the expertise, independence, good governance and financial viability of representative organisations. These are assessed in the first, preliminary phase of the procedure, along with mandatory requirements to register the claim in the WAMCA register, a waiting period to enable other organisation to file a collective action, and attempts to reach a settlement. **This preparatory phase takes rather long, in particular in collective actions to obtain damages. In fact, so far we only have one final judgment on the merits in a compensatory collective action, and that claim was denied.** The assessment of the different requirements often results in multiple interim judgments, sometimes also leading to interim appeals. It goes without saying that these requirements have also increased the costs and complexity of bringing collective, including for standing organisations, such as the Dutch *Consumentenbond*. And not only for damage claims, but also for collective injunctive relief and 'idealistic' claims. **The new regime under the WAMCA has also led to uncertainty as regards some of the requirements, sometimes triggering extensive litigation and resulting in diverging assessments between District Courts.** Of course, this is in part inherent to the novelty of the WAMCA, and as experience and case law progress, we may see that practice improves.

Interestingly, **we have also seen that the number of collective actions has slightly dropped:** While before 2020, the number of collective actions was approximately 25 per year, over the last five years this was 18 to 20 cases annually. This is particularly noteworthy as one would have expected that enabling actions for compensation – which make up around 25% of the cases – would perhaps lead to an increase.

In your view, what have been some of the most significant successes of the WAMCA so far?

One important achievement is the settlement in several WAMCA cases regarding the diesel emission scandal a few months ago. I doubt that without the WAMCA this settlement would have been achieved, as earlier negotiations have not been effective.

More generally, what I find attractive about the WAMCA is that it is a single procedure for all types of claims, not restricted to consumer law. Other claims, including climate change, human rights, competition law, IP and privacy violations, are also filed under it. This avoids difficulties in claims with different aspects, as we often see in consumer and privacy cases.

There are only a few differences for claims under the RAD and for specific idealistic claims. The WAMCA has enabled that important cases leading to mass harm and backed up by specialised lawyers and funders can be addressed. Some of these cases have also attracted media attention, for instance the claim brought against booking.com and a case that is being prepared involving a data leak of sensitive medical data. This creates public awareness and hopefully media attention also gives people the feeling that their concerns are taken seriously.

The report highlights several challenges and makes several recommendations for the future. What are the changes you think are the most urgent to implement?

The report lists a series of recommendations and it is difficult to prioritize them as they are interrelated. Many are technical legislative amendments or points of attention, but together they aim to reduce complexity, provide more clarity, and to shorten the preliminary stage in which standing and admissibility are assessed. For instance, there is quite some discussion and diverging case law about the requirement that 'similar interests' are at stake. An important recommendation, particularly for idealistic non-compensatory claims, is to use a qualitative rather than quantitative interpretation when assessing whether a claiming organization is representative, as organisations representing minority groups may struggle to show how many people they represent. Enabling judges to skip the mandatory opt-out period in such cases would also speed up the procedure.

Another important recommendation is to amend the procedure for assessing the admissibility of repeat players; standing organisations that have experience with collective actions, such as *Consumentenbond*, to avoid repeating the same work in each case.

Other important procedural improvements would be to skip the mandatory three to six months waiting period after filing the case if other organisations are unlikely to bring a collective action, and to skip the mandatory settlement attempt period if a settlement is clearly out of reach.

Finally, more guidance is needed on third party litigation funding. TPLF is allowed in the Netherlands, but the requirement that claiming organisations remain independent from the funder leads to recurring case-law discussions. A model funding agreement would help.

Big Tech in the spotlight

Landmark Amsterdam Court of Appeal ruling confirms admissibility of collective non-material damage claims in the TikTok case

On 7 October the Amsterdam Court of Appeal issued a landmark ruling overturning the 2023 District Court decision that had rejected collective claims for non-material damages on the grounds of their individualised nature. One of the claimants in this litigation is Foundation Take Back Your Privacy (TBYP), supported by **Consumentenbond**, which in June 2021 started a collective action alleging serious privacy and consumer-rights breaches by TikTok, including unlawful processing of children's personal data. The Court of Appeal held that both material and non-material damages stem from the same alleged violations and the same underlying facts. The Court confirmed that identical damage is not required for collective treatment and that differences can be addressed later through the statutory mechanism of categorisation, in line with legislative intent. The ruling also emphasised the efficiency of handling liability and damages together in a single collective action rather than forcing affected consumers into individual claims. This marks a significant development for collective redress in the Netherlands, particularly for privacy and data-related cases.

UK CAT finds that Apple abused its dominant position on the App Store, entitling millions of UK consumers to compensation

On 23 October, the UK Competition Appeal Tribunal (CAT) issued its judgement *in Dr Rachael Kent v Apple* finding that Apple breached competition law by imposing excessive and unfair 30% commissions on app sales and in-app payments. The Tribunal held that the overcharges imposed on developers were partly passed on to consumers, who are therefore entitled to compensation. The claim covers approximately 36 million UK Apple device users, with estimated consumer losses of around £1.5 billion over the past decade.

Class action against Booking.com for several anti-competitive and misleading practices

On 13 November, Stichting Consumenten Competition Claims (CCC), together with **Consumentenbond** filed a collective action against Booking.com in the Netherlands. The claim stresses that Booking has abused its dominant position, restricted competition, and mislead consumers for more than a decade. According to CCC and Consumentenbond, these practices have resulted in consumers paying inflated prices for hotel bookings.

CLCV launches group action against Apple over music streaming practices

In November, **CLCV** launched a group action in France before the Paris Judicial Tribunal against Apple over practices implemented on the App Store. The claim argues that Apple's conduct has led to higher costs for consumers and deprived them of clear information about the actual pricing of music streaming services. The case follows the European Commission's decision of March 2024 – in which BEUC also intervened – finding that Apple abused its dominant position by requiring music streaming app providers to use its internal payment system.

Other major legal actions and judgements

Settlement reached for EA189 diesel drivers in the Dutch collective claim

On 10 September 2025 the Volkswagen Group Diesel Efficiency Foundation (in collaboration with the **Consumentenbond**), the Car Claim Foundation and the Diesel Emissions Justice Foundation has publicly announced the settlement agreement reached with Volkswagen on compensation for Dutch (former) owners of cars with an EA189 diesel engine. This concerns diesel cars of the Volkswagen, Audi, Seat and Škoda brands, marketed between 2008 and 2015. It is expected that

owners of more than 100,000 vehicles will be compensated under this settlement. The compensation will range from around €300 to €2,500 depending on the car model, the moment the car was purchased, and whether it concerned the purchase of a new or used car. More information is available on the Diesel Claim of the **Consumentenbond** webpage here.

DECO wins class action against three major Portuguese telecom operators

On 22 September, the Lisbon First Instance Court ruled in favour of DECO in its collective action against Portugal's three main telecom operators, ordering them to reimburse nearly €40 million to more than 1.6 million consumers. The case concerned unlawful charges resulting from a price increase introduced at the end of 2016, which DECO argued was imposed without proper communication and in breach of contractual conditions. The judgment will allow consumers to recover the difference charged between November 2016 and August 2017. DECO, which had received numerous complaints from affected consumers, welcomed the ruling as an important step toward ensuring fair treatment in the Portuguese telecoms market.

Collective claim against six major energy suppliers in the Netherlands

On 30 September the Consumer Competition Claims (Consumenten Competition Claims - CCC) in collaboration with **Consumentenbond** and the Homeowners' Association (Vereniging Eigen Huis - VEH) started a collective claim against six largest energy suppliers in the Netherlands. The interest groups seek compensation for consumers who were unfairly charged rate increases during their variable energy contracts. In March, the Amsterdam Court of Appeal ruled in a case against energy supplier Vattenfall that the amendment clause in its general terms and conditions is unfair and unlawful. The judgment affects all consumers with a variable energy contract, because almost all energy suppliers in the Netherlands used the same clause and increased their rates during the contract period.

Borgarting Court of Appeal approves class action brought by the Norwegian Consumer Council against Riverty

On 14 October, the Borgarting Court of Appeal upheld the ruling issued by the Oslo District Court in May. As in the first-instance judgment, the Court of Appeal found that a class action is an appropriate and suitable procedural form for pursuing parking customers' claims for reimbursement of fees collected in breach of the Financial Agreements Act. The **Norwegian Consumer Council** has brought the action against the debt collection company Riverty, arguing that the company charged unlawful invoice fees to consumers who had already paid for parking. Riverty has four weeks to appeal the ruling to the Supreme Court.

ZPS files €200 million collective lawsuit against GEN-I, Slovenia's largest electricity supplier

On 16 October, **ZPS – Zveza potrošnikov Slovenije** filed a €200 million collective lawsuit before the Ljubljana District Court against GEN-I over alleged unlawful unilateral increases in electricity prices. According to ZPS, more than 300,000 consumers in Slovenia were affected by price hikes introduced from 1 August 2022 onwards. The average compensation sought per household is around €600, with total estimated damages of €193 million.

UK Competition Appeal Tribunal decides on the financial interests of litigation funder in Merricks v Mastercard

On 31 October, the CAT delivered its long-awaited decision on costs, distribution, and the collective settlement in Merricks v Mastercard. It upheld the three-pot settlement structure but suspended its implementation pending the outcome of the funder's ongoing judicial review proceedings. The CAT rejected the funder's request for a £40 million payment to reimburse its investment in the claim.

Takata airbag scandal – CLCV launches group action against Stellantis

On 3 December, **CLCV** launched a group action against Stellantis seeking compensation for owners of vehicles equipped with defective Takata airbags. Since 2024, the manufacturer has advised affected consumers not to use their cars due to safety risks linked to the airbag defect. The action focuses on Stellantis group, including Peugeot, Citroën, DS Automobiles, FIAT, Opel, Chrysler, Dodge, Jeep and Lancia.

Latest updates from the Court of Justice of the EU

CJEU rules that Dutch courts have jurisdiction to hear the App Store representative action

On 2 December the CJEU delivered its judgment in case C-34/24 Stichting Right to Consumer Justice and Stichting App Stores Claims. The Court clarified that Dutch courts have international and territorial jurisdiction to hear a representative action concerning Apple's alleged anticompetitive conduct on App Store aimed at the Netherlands market. The CJEU held that the App Store is specifically designed for the Dutch market, and that the damage should therefore be considered to occur in the Netherlands, regardless of where the individual users were located at the time of purchase. As a result, any Dutch court would have jurisdiction. The CJEU further noted that

concentrating a representative action before a single Dutch court seised by the qualified entity supports the sound administration of justice and avoids the risk of divergent rulings. The CJEU thus departed from the Advocate General's opinion – summarised in our May issue – which had suggested that jurisdiction should depend on the domicile of each App Store user linked to their Apple ID. Under that approach, foundations would have been required to bring proceedings before multiple district courts, which would be impractical.

Advocate General of the CJEU supports access to evidence for consumer organisations in competition damages claims in the Meliá Hotels case

On 12 June, Advocate General Szpunar delivered his opinion in Case C-286/24 (Meliá Hotels International), following a request from the Portuguese Supreme Court on the threshold a consumer association must meet to obtain access to evidence before bringing a competition damages action. As the Damages Directive 2014/104 does not create collective redress mechanisms, leaving questions of standing and procedure to national law. The CJEU's upcoming judgment will therefore be important for consumer organisations. Under Article 5(1) of the Damages Directive, disclosure may be ordered where a claimant shows that its action is "sufficiently plausible". In this case, disclosure is sought to demonstrate harm suffered by Portuguese consumers as a result of alleged anticompetitive conduct. The AG's opinion appears to support a low plausibility threshold. If the Court follows this view, consumer associations would only need to show plausible harm at the preliminary stage to justify access to evidence, easing their work in competition damages actions.

Beyond the Directive: what's new on representative actions in Europe

Access to Justice Foundation launches strategy for distributing unclaimed class action funds

On 28 October, the Access to Justice Foundation (ATJF) unveiled a new strategy outlining how it will allocate unclaimed compensation arising from collective actions. It explains ATJF's approach to managing these funds and the principles that will guide its future grant-making. The development of this strategy follows the Competition Appeal Tribunal's recent decision to transfer £3.8 million in unclaimed settlement money from the Gutmann v SW Trains case to the Foundation. ATJF plans to use such undistributed damages to improve access to justice, for example by supporting organisations that provide legal assistance, contributing to policy work, and promoting awareness of consumer redress mechanisms. Over the past year, ATJF has worked closely with consumer and funding specialists – including **Citizens Advice** and **Which?** to shape the strategy. An open call for grant applications is expected in early 2026, when funds from the SW Trains case will begin to be distributed.

European Civil Justice Centre officially launched

A new European hub for civil justice research and policy has been launched with the creation of the European Civil Justice Centre (ECJC). Hosted by Erasmus School of Law and supported by KU Leuven, the Centre will bring together scholars, practitioners, policymakers, and civil society to advance research, training, and innovation in civil justice. The ECJC aims to strengthen access to justice through interdisciplinary collaboration and policy-relevant insights. Among other things, the ECJC will focus on collective actions in the EU. The inaugural event took place on 27 November in Rotterdam.

EU High-Level Forum on Justice for Growth – the work is concluded and the final report and webpage are now available

On 18 November, the European Commission published the final report of the High-Level Forum on Justice for Growth, now available on the dedicated website together with all plenary sessions, discussion papers, and outcomes. Launched in 2025, the Forum brought together Member States, EU institutions, and key stakeholders – including BEUC – to reflect on how civil, company, and digital justice policies can support European competitiveness and growth. Two areas are particularly relevant for consumer collective redress: third-party litigation funding (TPLF) and private international law. On TPLF, the participants expressed strong skepticism about the need for EU-level regulation at this stage, and the Forum broadly agreed that there is currently no demonstrated need for legislative action. On private international law, the report stressed the revision of the Brussels Ibis Regulation should be the main priority, although views differed on whether the reform should include specific rules on collective redress.

Interesting reads

BEUC publishes checklist on what is still needed for collective redress to deliver justice for consumers

On 7 November, BEUC published a new checklist highlighting the key steps still needed to make collective redress truly effective across the EU. Although adoption of the 2020 EU Representative Actions Directive (RAD) was a major breakthrough, implementing the Directive is only the first step. BEUC's checklist identifies five priority areas for EU and national policymakers to address to ensure that collective redress can deliver in practice:

1. Ensure adequate funding for collective actions
2. Modernise EU private international law rules
3. Shift the burden of proof and ease access to evidence
4. Facilitate collective redress for non-material harm
5. Bridge private and public enforcement mechanisms

Which?'s submission to the UK evaluation of the opt-out class action regime

On 15 October, Which? – the UK consumer organisation and a BEUC member – submitted its response to the call for evidence launched in August by the UK Government on the functioning of the opt-out collective actions regime. Which? notes that, despite the regime's original ambitions, outcomes to date have been limited. Only a modest number of claims are progressing, and consumers' direct benefit has so far been disappointing. To date, only one case has reached a final judgment, several claims have resulted in partial or contested settlements, and certification has been denied in four cases. While the regime remains the only realistic mechanism for consumers to obtain redress for competition law breaches, its effectiveness is being constrained by high costs, significant delays, legal uncertainty, and the narrowness of its scope. In its submission, Which? urges the Government to address these issues by reducing litigation costs, accelerating proceedings, increasing legal clarity, and expanding the regime beyond competition law to allow opt-out actions for breaches of consumer protection legislation. These concerns are framed as matters of implementation rather than structure: Which? stresses that the framework under section 47B of the Competition Act 1998 remains appropriate, and cautions against reforms that could weaken the regime's viability, including changes that would render private funding uncommercial.

Consumer Collective Redress in EU Law Lessons from the Polish Legal System

A new book by Jagna Mucha – also available in open access – offers an in-depth analysis of consumer collective redress in the EU, with a particular focus on Poland's 15 years of experience with group proceedings. The study reviews the evolution of collective redress under EU law, compares mechanisms across Member States and the UK, and provides a detailed assessment of the Polish model in practice. It also sets out recommendations for strengthening consumer protection and effective enforcement through representative actions.

Events

➔ On **13 November** BEUC hosted the online workshop **"Collective Redress Beyond Material Harm"**, which brought together key experts to reflect on one of the most pressing questions in collective redress: how to ensure that non-material harm does not remain uncompensated. Participants included representatives of consumer organisations, qualified entities and other like-minded NGOs, as well as members of the judiciary, national and EU policymakers, and academics. The workshop featured contributions from both academia and practice. An event report will be published on EC-REACT platform.

➔ On **10 December**, the European Commission will host the **final webinar** of the year for designated RAD qualified entities on **funding opportunities and collective redress campaigns** (10:30–13:30 CET). QEs can register via EC-REACT platform; those not yet on the platform can join it here.

Stay connected and engaged

We are eager to make the activities of this project as interesting and beneficial to your work as possible. Your feedback and ideas are invaluable to us. Please feel free to share your thoughts by e-mailing enforcement[AT]beuc.eu.

Additionally, if you know of other consumer or digital rights groups that could benefit from this project, please let us know.

You can access the last three issues of this newsletter on the BEUC website here, here and here.

Supported by funding from Luminate Projects Limited.

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