FROM COLLECTIVE HARM TO REDRESS

what's new

Newsletter 8th issue, June 2026

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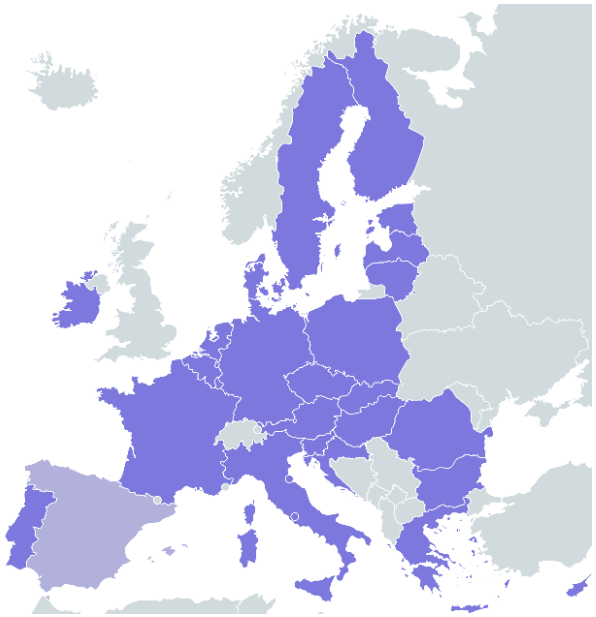
RAD roll-out

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



RAD is transposed

RAD transposition is pending

Spain remains the last Member State yet to transpose the Representative Actions Directive

Almost three and a half years after the transposition deadline, **Spain** remains the only EU Member State that has not yet completed the transposition of the Representative Actions Directive into national law. As of beginning of June, there have been no substantive developments on the draft law published on 14 March 2025. The original deadline of 24 March 2025 for submitting amendments has now been postponed 49 times and is currently set for 10 June 2026.

On 29 April, the European Commission sent a reasoned opinion to Spain for failing to transpose the Directive. Spain has two months to reply and take the necessary measures. Otherwise, the Commission may decide to refer the case to the CJEU, with a request to impose financial sanctions. Member States had until 25 December 2022 to incorporate the Directive into national law. In January 2023, the Commission issued a letter of formal notice to several Member States, including Spain, for failing to notify complete transposition measures. Since then, Spain has only notified partial transposition of the Directive.

Best practices of national transposition

National approaches to collective settlements under the RAD: court fairness review and consumer choice

Article 11 of the Representative Actions Directive provides a common framework for settlements, but leaves Member States important choices. It requires settlements to be approved by a court or administrative authority. However, Member States may decide whether courts or authorities can refuse approval where the settlement is unfair, and whether individual consumers should be able to accept or refuse being bound by the settlement.

Member States have taken different approaches. Out of 26 transpositions, around a third have introduced both optional safeguards, allowing the court or administrative authority to refuse approval of an unfair settlement and giving consumers the possibility to accept or refuse being bound by the agreed settlement. This group includes, among others, Belgium, Cyprus, Greece, the Netherlands, Poland and Romania. Roughly another third provide only for court scrutiny of unfair settlements, including Czechia, Denmark, Estonia, Finland, Croatia and Sweden. The remaining countries either expressly provide only for consumer acceptance or refusal of the settlement, as in Germany, Latvia and Slovenia, or do not appear to have introduced either of these two specific safeguards, as in Austria, Italy and Lithuania.

Looking at examples where both additional safeguards are in place, the Netherlands provides a strong model. Under Article 1018h of the Dutch Code of Civil Procedure, a collective settlement must be submitted to the court for approval, and consumers are given a second opportunity to opt out after the settlement is approved. Belgium offers another useful example: Article XVII.49(2) of the Code of Economic Law allows the court to refuse approval where the agreed redress for the group or a sub-category is manifestly unreasonable, or where the opt-in or opt-out period for such settlement is manifestly unreasonable. Greece also combines both safeguards: Article 10ιγ of Law 2251/1994 requires **the court to review the settlement, taking into account the rights and interests of all parties, especially consumers, and expressly allows individual consumers to accept or refuse being bound by it**. Cyprus and Poland also provide clear examples of both safeguards. In Cyprus, Article 16 of Law 91(I)/2023 requires the court to ensure that settlement terms are lawful, reasonable and fair, and allows individual consumers to refuse to be bound by the approved settlement by express declaration to the court. In Poland, Article 19 of the Act on Pursuing Claims in Group Proceedings allows the court to reject a settlement that grossly violates the interests of group members, while Article 19a allows consumers to withdraw from the group within two weeks if they disagree with the settlement terms.

Some countries, while not expressly providing that courts may refuse approval of settlements on the ground that they are unfair, have still introduced safeguards protecting consumer autonomy by allowing consumers not to be bound by an agreed settlement. In Germany, under Sections 9 and 10 of the VDuG, a settlement must be approved by the court and published in the representative actions register, after which registered consumers have one month to withdraw from it. Latvia also provides that consumers who disagree with a settlement may withdraw from the consumer class action and will not be included in the settlement. Slovakia offers a similar safeguard:

registered **consumers must be informed before a settlement is concluded and may opt out from participation if they disagree**. Slovenia provides another interesting model: after court confirmation of a collective settlement, affected persons may be given a period to indicate whether they wish to be included in or excluded from its effects.

These examples show that, while the RAD created a common baseline, national settlement procedures remain diverse. The most consumer-protective models are those that combine independent scrutiny of the fairness and legality of the settlement with a clear possibility for consumers not to be bound by an outcome they do not accept.

Big Tech in the spotlight

Which? collective action against Apple

On 2 April, the UK Competition Appeal Tribunal certified **Which?**, a member of BEUC, collective claim against Apple. The claim concerns Apple abusing its dominant position by unlawfully favouring its own cloud storage (iCloud). Which? claims that Apple had deployed technical restrictions and practices which prevents Apple iOS users from storing certain types of files on any cloud storage service other than iCloud. It is also claimed that Apple uses unfair choice architecture options which steer users towards iCloud. Which? will represent around 40 million UK iPhone and iPad users that can be entitled to a share of a GBP 2 billion claim against Apple.

The UK Competition Tribunal approves collective action against Microsoft

On 21 April, the UK Competition Appeal Tribunal approved the application for a collective action (Dr. Maria Luisa Stasi vs. Microsoft Corporation Microsoft Limited & Microsoft Ireland Operations Limited). The claim concerns Microsoft forcing customers to pay higher licensing fees for using Windows Server on Amazon Web Services (AWS), Google Cloud Platform (GCP), and Alibaba Cloud - than it charges for the same type of licence running on its own Microsoft Azure cloud. Microsoft makes it cheaper for users of Microsoft products to operate that software on Microsoft Azure rather than on rival cloud platforms.

Settlement reached for iPhone 15 and 16 buyers in US class action case

On 6 May, Apple agreed to pay USD 250 million to consumers in the US who bought an iPhone 15 and 16 between June 2024 and March 2025, due to false advertising concerning its AI features called “Apple Intelligence” on iPhones. Amongst other things, Apple advertised an enhanced Siri voice assistant, which wasn’t delivered. Affected consumers will be reimbursed between USD 25 and 95.

Italian court paves the way for consumer redress over Netflix price increases

On 3 April, Movimento Consumatori announced that the Court of Rome had upheld its action against Netflix Italia, finding unlawful the contractual clauses that allowed Netflix to unilaterally increase subscription prices between 2017 and January 2024. The court held that these clauses violated Italian consumer law because they did not specify a justified reason for such changes. As a result, subscription price increases introduced in 2017, 2019, 2021 and 2024 were declared illegitimate. The ruling could affect millions of Italian consumers: Netflix's subscriber base in Italy grew from approximately 1.9 million customers in 2019 to around 5.4 million in 2025. According to the claimant, a premium subscriber who maintained their subscription throughout the period may be entitled to around €500 in reimbursement, while a standard subscriber could recover approximately €250.

Dutch collective action against Snapchat over harmful content and unlawful data practices

On 9 June 2026, Stichting Onderzoek Marktinformatie (SOMI) brought a collective action against Snapchat before a Dutch court, alleging that the platform exposes minors to harmful content and illegal products, uses addictive design features, and unlawfully processes users' personal data without valid consent. The case concerns Snapchat users in the Netherlands who have used the platform since 25 May 2018. Snapchat has more than 6 million users in the country and reaches around 90% of young people aged 13 to 24. The claim seeks compensation of up to €1,000 for affected users, as well as stronger safeguards for minors, improved consent mechanisms for targeted advertising, and measures against grooming, harmful content and illegal activities on the platform.

Other major legal actions and judgements

EKPIZO collective action against Alpha Bank

On 1 April, the collective action brought by **EKPIZO,** a member of BEUC, against was Alpha Bank was heard before the Athens Court of First Instance. EKPOIZO challenges Alpha Bank's practice of unilaterally and automatically converting free deposit accounts into a paid transaction package called "myAlpha Benefit Base", which carries a monthly fee of EUR 0.80, effective from 1 February 2026. This practice concerns accounts that previously had no charges, and consumer were enrolled without having requested the service or given explicit consent.

CLCV preparations for collective action against Netflix

Consommation, logement et cadre de vie (CLCV), a member of BEUC, are currently preparing a collective action against Netflix for unfair price increases in France. Between 2015 and 2023, Netflix imposed four price increases with consent from its subscribers. CLCV is now requesting consumer testimonials to be able to seek reimbursement for harmed consumers.

CLCV secures first favourable ruling in Volkswagen Dieselgate case in France

On 5 May, the Pau Court of Appeal ruled that Volkswagen Group France and Volkswagen Bank had breached their obligation to deliver goods in conformity when marketing nearly 950,000 vehicles equipped with software that artificially reduced pollutant emissions between 2007 and 2015. The case forms part of broader efforts by **CLCV – Consommation, Logement et Cadre de Vie** – to obtain compensation for consumers affected by the Dieselgate scandal. The Court also held that Volkswagen's conduct caused harm to the collective interests of consumers. While the ruling does not decide the outcome of CLCV's pending group action, it marks the first time Volkswagen has been condemned in France in connection with Dieselgate for harm to the collective interest defended by CLCV.

Joint Chambers of the Italian Supreme Court to decide on jurisdiction in MSC Cruises collective action

In April, the Italian Supreme Court referred to its Joint Chambers important jurisdictional questions arising in a collective action brought by consumer organisation **CODICI - Centre for Citizens' Rights, a BEUC member**, against MSC Cruises over cancelled cruise stops in Cuba. The action seeks compensation for consumers who allegedly received misleading information after MSC modified the cruise itineraries, including claims for price reductions and damages for "ruined holidays". The Joint Chambers will have to clarify whether Italian courts can hear collective actions against companies established outside the EU but operating on the Italian market through closely linked local entities.

US court dismisses PFAS class action against Band-Aid products

In February, the US District Court of New Jersey dismissed a consumer class action against Johnson & Johnson entities and Kenvue concerning the alleged presence of PFAS ("forever chemicals") in Band-Aid products. The plaintiffs claimed that they would not have purchased the products, or would have paid less for them, had they known they contained PFAS. However, the Court found that the claimants had failed to demonstrate a concrete injury, noting that they had not alleged any adverse health effects or that the products failed to function as intended. The action was dismissed

on standing grounds without prejudice, allowing the plaintiffs to amend their complaint and address the deficiencies identified by the Court.

Court of Appeal blocks UK environmental class action against water companies

On 5 March, the UK Court of Appeal ruled that the proposed class representative Professor Carolyn Roberts could not bring opt-out collective action against six UK water and sewerage companies for alleged abuse of dominance. The £800 million claim, which would have been the UK's first environmental class action, was originally brought before the Competition Appeal Tribunal (CAT). The claim stated that the six companies provided false information to the regulator about the scale of their sewage discharges, enabling them to overcharge more than 30 million consumers. The Court of Appeal upheld the CAT's conclusion that the abuse of dominance claim could not proceed as a standalone competition claim, as it necessarily depended on an alleged breach of reporting duties – a matter reserved to the regulator's enforcement powers.

UK's largest environmental pollution claim reaches the High Court

In April, a group action involving more than 4,500 claimants reached the High Court in what is described as the UK's largest-ever environmental pollution claim. The case is brought against poultry producer Avara Foods, its subsidiary Freemans of Newent, and Welsh Water, alleging private and public nuisance linked to pollution in the rivers Wye, Lugg and Usk. The claimants argue that the pollution was caused by the spreading of chicken manure on agricultural land and by sewage spills, affecting people living and working near the rivers along the Welsh-English border. The action seeks both remedial measures to restore the rivers and compensation for those whose lives and businesses have been affected.

Dutch collective action against AppLovin over tracking in apps and games

On 21 May, The Privacy Collective filed a collective action in the Netherlands against the US adtech company AppLovin, alleging unlawful tracking and profiling of millions of Dutch users through software embedded in popular free games and apps. According to The Privacy Collective, AppLovin collects and trades personal data of at least 8.5 million people in the Netherlands, including around 1.5 million children, through apps such as Block Blast, Subway Surfers, Helix Jump, Vinted and CapCut. The data is allegedly used to build detailed profiles and shared with hundreds of parties for advertising purposes, often without valid consent and despite users or parents indicating that they do not wish to be tracked. The action, brought under the Dutch WAMCA regime, seeks to stop AppLovin's practices and obtain compensation for affected users.

noyb brings collective action against CRIF over secret credit scoring in Austria

On 9 June, noyb – European Center for Digital Rights announced class action against CRIF, one of Austria's largest credit reference agencies, over its alleged unlawful collection and use of personal data for credit scoring. According to noyb, CRIF has built a largely unknown database containing the names, dates of birth and addresses of almost all adults in Austria, while for around 90% of those affected the score is based mainly on address, gender and age rather than real financial data. These scores are sold to companies such as banks, energy suppliers, mobile operators and online retailers, and may determine whether consumers can obtain contracts. noyb has filed an injunction to stop future unlawful practices and is preparing a representative action for redress, seeking around €500 in compensation for each person allegedly unlawfully included in the database or scored.

Latest updates from the Court of Justice of the EU

CJEU reviews litigation fundings potential impact on antitrust rules

Under case C-431/26 - Associação Ius Omnibus III, CJEU will decide whether class actions funded in certain ways could weaken EU antitrust rules. Ius Ominbus launched a case against 12 banks in 2024, demanding them to compensate consumers for the damages caused by a cartel in violation of EU competition law. The case is backed by a funder, but the funder does not have the possibility to interfere or determine the case. However, if the case is successful, the funder will receive an amount determined by the Portuguese Court "as reasonable and equitable". Hence, the Portuguese Court is now asking CJEU whether an organisation brining forward a claim is still fully independent, if it is funded by a litigation funder and its board members are paid by that funder. The Portuguese Courts want to know if this is possible under EU law.

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

New Jersey lawmakers advance restrictive third-party litigation funding bill

In June, New Jersey Assembly committee had advanced Bill A2159, one of the more far-reaching litigation funding proposals currently under consideration in the United States. The bill would require parties in civil and administrative proceedings to disclose third-party litigation funding agreements to the court for in-camera review. It would also cap funders' recovery at 25% of litigation proceeds, bar funders from influencing litigation strategy, attorney selection, remedies sought, or settlement decisions. Violations could render funding agreements unenforceable, trigger penalties under New Jersey's Consumer Fraud Act, and make funders jointly liable for certain court costs and sanctions.

Interesting reads

Limitation periods in EU Antitrust private enforcement

In a new paper, Miguel Sousa Ferro examines the impact of EU law on limitation periods for the exercise of the right to damages arising from infringements of Art. 101 and 102 TFEU, as it stands after Heureka. It distinguishes that which is imposed by EU secondary law, specifically the Antitrust Damages Directive, and that which is imposed by EU primary law, especially the principle of effectiveness, as clarified by the CJEU. It also delves into the interplay with national law, and the dynamics which have emerged between European and national case-law on limitation periods and provides some examples from national case-law.

Collective settlements in the digital space

A recent blog post based on a presentation at the University of Amsterdam's *Collective Redress and Digital Fairness Conference* examines why collective settlements are particularly relevant for digital rights cases. The authors note that harms linked to personal data, AI training, the DMA or the DSA are often dispersed, diffuse and difficult to quantify, making individual litigation impractical. The blog argues that settlements can offer faster and more predictable outcomes than lengthy court proceedings, but only if they are subject to robust judicial review. It contrasts the more developed US approach to settlement control with the more limited safeguards under the RAD, and highlights the importance of fairness review, transparency, class member objections and judicial scrutiny -

especially where settlements concern non-material damage, cy-près mechanisms or innovative in-kind arrangements.

Litigation funding as an indispensable internalisation tool

Published in May 2026, *The Incentive Structure of Litigation Finance: How Free Coordination Turns Financed Collective Redress into an Indispensable Internalization Tool* by Alexander Morell and Daniel Schellenberg argues that third-party litigation funding is indispensable for enabling collective redress, which in turn is indispensable for internalizing externalities in a free-market economy. The authors contend that litigation funding helps overcome coordination problems among dispersed victims, provides access to capital for claims that would otherwise remain unenforced, reduces litigation risk through diversification, and supports the effective deterrence of unlawful conduct by ensuring that wrongdoers bear the costs of the harm they cause.

From individual rights to industrial litigation: the transformation of GDPR enforcement

In May, a new paper by Dr Mark Leiser was published in partnership with the Centre for Information Policy Leadership (CIPL), examining how collective redress is reshaping GDPR enforcement. The paper highlights the emergence of a two-track system, where supervisory authorities and courts act in parallel but often without clear coordination. It also points to divergent national approaches to opt-out mechanisms, third-party funding and non-material damages under Article 82 GDPR, which influence where collective claims are filed. The paper further discusses the impact of AI tools in lowering the cost of identifying and scaling claims, and argues that the future of GDPR enforcement requires better calibration – not a retreat from collective redress.

New book analyses Spain's emerging collective actions regime

In *El modelo español de acciones colectivas: Un análisis tras la Directiva de acciones de representación*, Leire Gutiérrez Molina examines Spain's new collective actions framework that is currently being developed following the adoption of the EU Representative Actions Directive (open access). The book argues that Spain's previous system of consumer collective actions suffered from significant regulatory gaps and inconsistencies, limiting its effectiveness in addressing mass harm situations. Through a comparative analysis and a detailed review of the proposed draft law, the author assesses whether the new regime can deliver a more effective, efficient and consumer-friendly system of collective redress, and concludes with a series of recommendations for further strengthening access to justice.

New paper on collective redress for inferred groups

A new paper by Liubomir Nikiforov, *EU Collective Redress for Inferred Groups: Standing and Compensation under the GDPR, the Representative Actions Directive and the AI Act*, was published in May (open access). The paper argues that EU law remains structurally misaligned with the way algorithmic systems generate harm, creating a collective redress gap for algorithmic "groups of persons". Comparing the GDPR, the RAD and the AI Act, the author shows that GDPR remedies remain tied to identifiable data subjects, the RAD focuses on consumers, while the AI Act refers to "persons or groups of persons" but does not create a corresponding collective compensation mechanism. The paper identifies inferred, risk-exposed groups constructed from anonymised data as the key harm-bearers currently left without meaningful access to compensation, and proposes a more group-friendly approach to collective redress, including opt-out models, lower representativeness thresholds, claimant categorisation, and AI-specific representation rights.

Events

- On **10 June**, the European Commission and noyb hosted a first workshop on **noyb's multifunctional IT tool for collective redress actions across the EU**. The current state of play of the IT tool, its future functionalities and planned activities on EC-REACT were presented.

- On **25–26 June**, the European Civil Justice Centre will organise a **European Civil Procedure Seminar** at KU Leuven, with online participation also available. The seminar follows the publication of the *European Civil Procedure Handbook* by de Gruyter and will bring together several of the book's authors to discuss key developments in the field, including cross-border litigation, Brussels Ia, collective litigation and third-party funding, judicial cooperation, and more. Online registration is available here.

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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.

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Supported by funding from Luminate Projects Limited.

Co-funded by the European Union

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