



BEUC

The European
Consumer
Organisation

EU Collective Redress

Old myths
&
recent realities

40 BEUC NATIONAL MEMBER ORGANISATIONS

- (AT) Arbeiterkammer
- (AT) Verein für Konsumenteninformation
- (BE) Test-Achats / Test-Aankoop
- (BG) Българска национална асоциация на потибителите - BNAF
- (CH) Fédération Romande des Consommateurs
- (CY) ΚΥΠΡΙΑΚΟΣ ΣΥΝΔΕΣΜΟΣ ΚΑΤΑΝΑΛΩΤΩΝ
- (CZ) Czech Association of Consumers (TEST)
- (DE) Stiftung Warentest
- (DE) Verbraucherzentrale Bundesverband
- (DK) Forbrugerrådet
- (EE) Eesti Tarbijakaitse Liit
- (ES) Confederación de Consumidores y Usuarios
- (ES) Organización de Consumidores y Usuarios
- (FI) Kuluttajaliitto – Konsumentförbundet ry
- (FI) Kuluttajavirasto
- (FR) Confédération de la Consommation, du Logement et du Cadre de Vie
- (FR) Organisation Générale des Consommateurs
- (FR) UFC - Que Choisir
- (UK) Consumer Focus
- (UK) Which?
- (GR) Ένωση Καταναλωτών η Ποιότητα της Ζωής - ΕΚΠΟΙΖΩ
- (GR) Κέντρο Προστασίας Καταναλωτών - ΚΕΠΚΑ
- (HU) Országos Fogyasztónédelmi Egyesület
- (IE) Consumers' Association of Ireland
- (IS) Neytendasamtökin
- (IT) Altroconsumo
- (IT) Consumatori Italiani per l'Europa
- (LU) Union Luxembourgeoise des Consommateurs
- (LV) Latvijas Patērētāju interešu aizstāvības asociāciju
- (MK) Organizacija na Potrosuvacite n Makedonija
- (MT) Ghaqda Tal-Konsumaturi
- (NL) Consumentenbond
- (NO) Forbrukerrådet
- (PL) Federacja Konsumentów
- (PL) Stowarzyszenie Konsumentów Polskich
- (PT) Associação Portuguesa para a Defesa do Consumidor
- (RO) Asociația pentru Protecția Consumatorilor din România
- (SE) Sveriges Konsumenter
- (SI) Zveza Potrošnikov Slovenije
- (SK) Združenie Slovenských Spotrebiteľ'ov

MEMBER STATES WITH COLLECTIVE REDRESS SYSTEMS

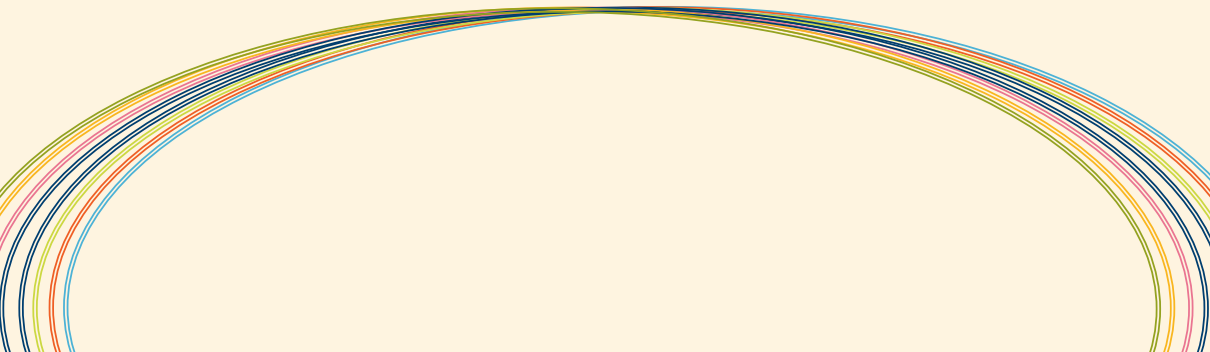
Austria**Bulgaria****Denmark****Finland****France****Germany****Greece****Hungary****Italy****Malta****Poland****Portugal****Spain****Sweden****The Netherlands****UK (England & Wales)**

While these countries have forms of collective redress procedures, in many cases they are too restrictive, under-used and thus ineffective. National systems rarely function for cross-border situations. As a result the EU Single Market loses when it comes to such complaints with a collective dimension. The clear solution to such fragmentation is delivering a long overdue EU law.



An EU system of Collective Redress:

- Should encompass all areas of consumer harm
 - Aim to obtain compensation
- Allow for the standing of consumer organisations
 - Cover national and cross-border cases
 - Ensure court's discretion over admissibility
 - Involve both 'opt-out' and 'opt-in' procedures
- Be accompanied by information for consumers
 - Control out-of-court settlements
- Allow compensation to be distributed fairly
 - Foresee efficient funding mechanisms





COLLECTIVE REDRESS

MYTHS & REALITY

When the many needs for EU Collective Redress (the ability for many victims to go to court as one) are discussed, some unfounded criticisms of the consequences often enter the debate.

To set the record straight, here we counter some of these common myths.

You can find further information on why European Collective Redress is long overdue in our position paper and booklet of national examples at www.beuc.eu

Myth...

It would cause a drastic increase in the amount of litigation.

In actual fact...

There is no proof of increase in litigation in EU Member States with functioning collective redress mechanisms. Contrary to many assumptions, in the US class actions do not make up a significant number of civil litigation cases (less than 1%).

On the contrary - in mass claim situations involving hundreds or indeed thousands of individual cases (e.g. the 'Equitable life' case in the UK), the burden on courts would have been alleviated by one collective case.

Myth...

It would harm a business reputation even if the action is without merit.

In actual fact...

This risk is reduced by early stage court hearings on admissibility to establish if the case has merit.

Claims that in the USA defendants settle even unmerited claims are not factual - most settlements occur after an admissibility hearing. Defendants then see the case as serious and potentially successful for the plaintiff.

Myth...

It would bankrupt businesses.

In actual fact...

In EU Member States where collective actions exist, no bankruptcies have been found to have occurred according to available data.

Myth...

US law firms would become actively involved - prompting claimants and bringing cases to court.

In actual fact...

The EU or its Member States should regulate on 'designated entities' i.e. those who can bring collective actions.

Myth...

It will be importing US 'class actions' to Europe.

In actual fact...

Both legal systems are very different. In the USA:

- Both parties must finance their own costs
- Punitive damages can be hefty
- Decisions are sometimes made by jury which can result in 'populist' judgments.

But in the EU collective actions should have:

- A 'loser pays' principle
- Damages just for harm/loss suffered
- Decisions by judge, not jury

In Europe, collective redress will enable effective access to justice.

“ 79%

of EU consumers are more willing to defend their rights if they could join with others who have suffered the same harm.”

- Eurobarometer #299

“

The annual direct cost to consumers and other victims ranges from approximately €13 billion to over €37 billion for cross-border, EU competition law breaches alone.”

(Ranging from the most to the least conservative assessments.)

- European Commission Impact Assessment, 2008 #165

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collective redress

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