



WORKSHOP ON THE IMPLEMENTATION OF THE REPRESENTATIVE ACTIONS DIRECTIVE (EU) 2020/1828

REPORT

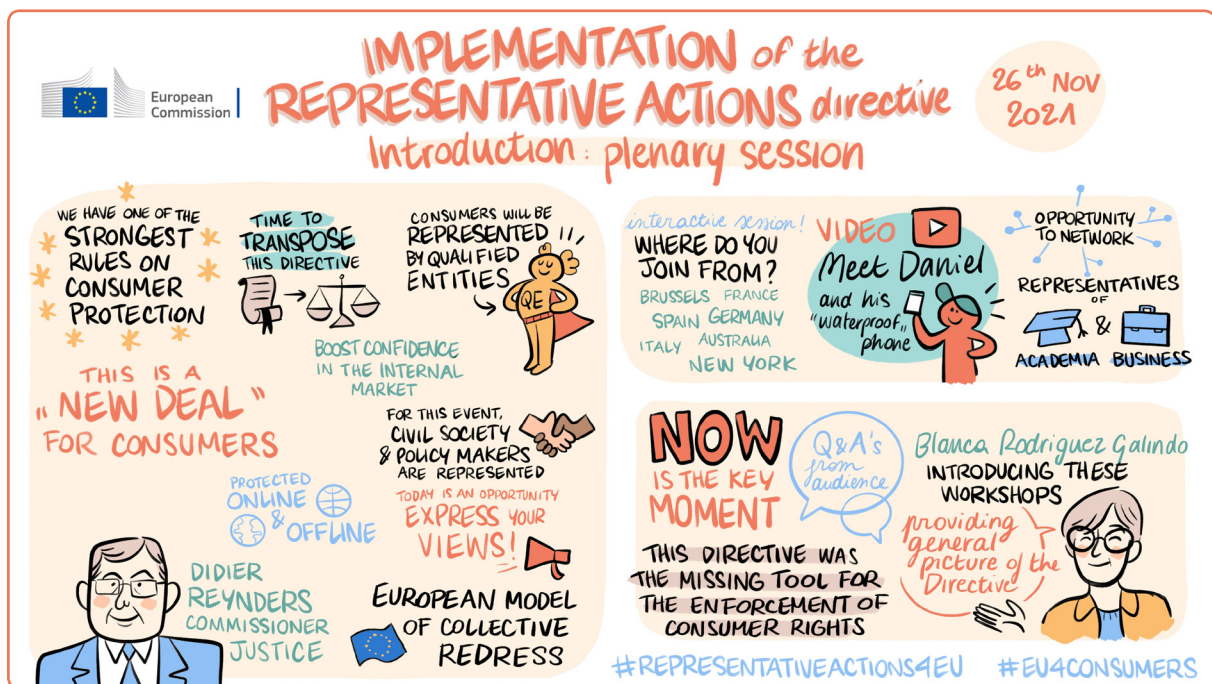
26 NOVEMBER 2021
#REPRESENTATIVEACTIONS4EU
#EU4CONSUMERS

A diverse group of 300 hundred experts from consumer and business organisations, representatives of EU Member States, academics and practitioners were brought together for an online workshop on the implementation of the Representative Actions Directive for the protection of the collective interests of consumers (EU) 2020/1828. The Directive was adopted in November 2020. EU Member States shall transpose the Directive into their national legal orders by 25 December 2022 and shall apply it from 25 June 2023.



WORKSHOP ON THE IMPLEMENTATION OF THE REPRESENTATIVE ACTIONS DIRECTIVE (EU) 2020/1828

During the workshop, participants learnt about the European model of collective redress mechanism set up by the Directive. The speakers addressed a broad range of topics and experts shared valuable insights on how the Directive could be most effectively implemented by Member States. Participants were actively engaged in the discussions, asked questions and provided feedback via Slido.



IMPLEMENTATION of the REPRESENTATIVE ACTIONS directive
Introduction: plenary session
26th NOV 2021

European Commission

WE HAVE ONE OF THE STRONGEST RULES ON CONSUMER PROTECTION

THIS IS A "NEW DEAL" FOR CONSUMERS

DIDIER REYNDERS COMMISSIONER JUSTICE

TIME TO TRANSPOSE THIS DIRECTIVE

CONSUMERS WILL BE REPRESENTED BY QUALIFIED ENTITIES

BOOST CONFIDENCE IN THE INTERNAL MARKET

FOR THIS EVENT, CIVIL SOCIETY & POLICY MAKERS ARE REPRESENTED TODAY IS AN OPPORTUNITY EXPRESS YOUR VIEWS!

EUROPEAN MODEL OF COLLECTIVE REDRESS

interactive Xmon! WHERE DO YOU JOIN FROM?
BRUSSELS FRANCE
SPAIN GERMANY
ITALY AUSTRALIA
NEW YORK

VIDEO Meet Daniel and his "waterproof" phone

OPPORTUNITY TO NETWORK REPRESENTATIVES OF ACADEMIA & BUSINESS

NOW IS THE KEY MOMENT

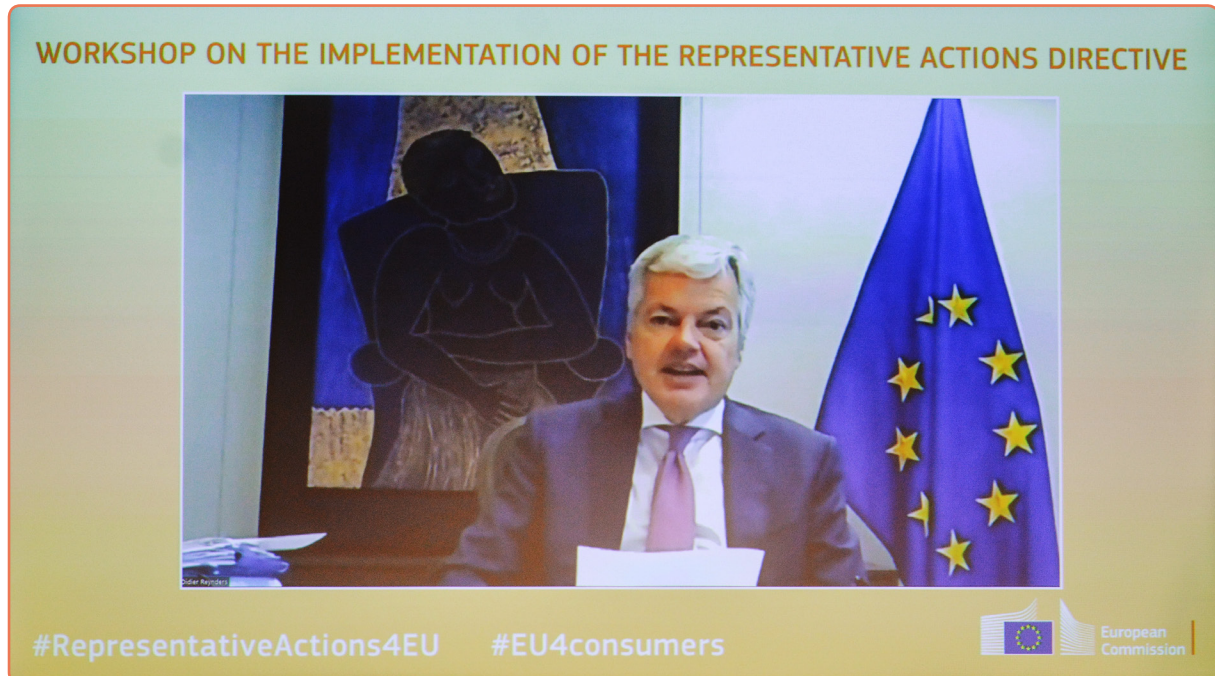
Q&A's from audience

Blanca Rodriguez Galindo INTRODUCING THESE WORKSHOPS providing general picture of the Directive

THIS DIRECTIVE WAS THE MISSING TOOL FOR THE ENFORCEMENT OF CONSUMER RIGHTS

#REPRESENTATIVEACTIONS4EU #EU4CONSUMERS

The Workshop was organised by the European Commission's Directorate General for Justice and Consumers and moderated by the journalist Jacki Davis. It included a key note speech by Commissioner Reynders, an introduction to the main features of the Representative Actions Directive and three parallel thematic discussions. The afternoon featured a plenary session in which rapporteurs from the thematic debates shared the outcomes of technical discussions, followed by a keynote addressed by Prof. Dr Catherine Piché, from Canada, and concluding remarks.



'A new deal for consumers, helping them stand up for themselves'

Didier Reynders, EU Commissioner for Justice

'In the post-pandemic economic recovery consumer confidence in the internal market is needed more than ever,' said Commissioner Reynders as he kicked off his remarks. He mentioned some of the recent challenges faced by consumers, such as the massive travel and flight cancellations without reimbursement at the beginning of the pandemic. The Representative Actions Directive sets a **European collective redress mechanism**. It provides for a new tool to help groups of consumers when they have been victims of wrongful practices by traders. The new rules will protect consumers from infringements in different economic sectors from energy, telecommunications and data protection to financial services, tourism or medical devices. The new mechanism will have a deterrent effect on dishonest traders, dissuading them from infringing consumer rights.

'We need to empower consumers to protect their rights. The Representative Actions Directive is an important step forward in that direction,' he said. Commissioner Reynders also stressed that there is no 'one size fits all' solution to collective redress, and therefore implementation of the Directive should be undertaken in full respect of the legal traditions of Member States.

He saw in the workshop a key opportunity for all interested stakeholders to discuss the options offered and the challenges raised by the Directive.



MORNING PLENARY SESSION



Blanca Rodriguez Galindo, Deputy Director, Head of Unit Consumer and Marketing Law, DG Justice and Consumers, kicked off the morning plenary session with a presentation of the **main features of the Directive on Representative actions**. She stressed that *'the Directive is a **principle-based instrument** containing important rules and obligations but only where and when necessary'*. She reiterated the point made by Commissioner Reynders about the approach the Directive takes of allowing Member States to integrate the new procedure as seamlessly as possible into their national procedural law, in accordance with their legal traditions. She reminded that the Directive is designed to complement the current legal framework for the enforcement of consumer rights at the European Union level and national level. Therefore, it allows the existing or future **national collective redress mechanisms**, to co-exist with the mechanism set up by the Directive.

The Directive, she said, gives regulatory choices to Member States, which call for discussion. She underlined that the workshop was an opportunity to draw a clearer view of the concrete measures that would serve an effective fulfilment of the obligations and support an efficient implementation of the options.

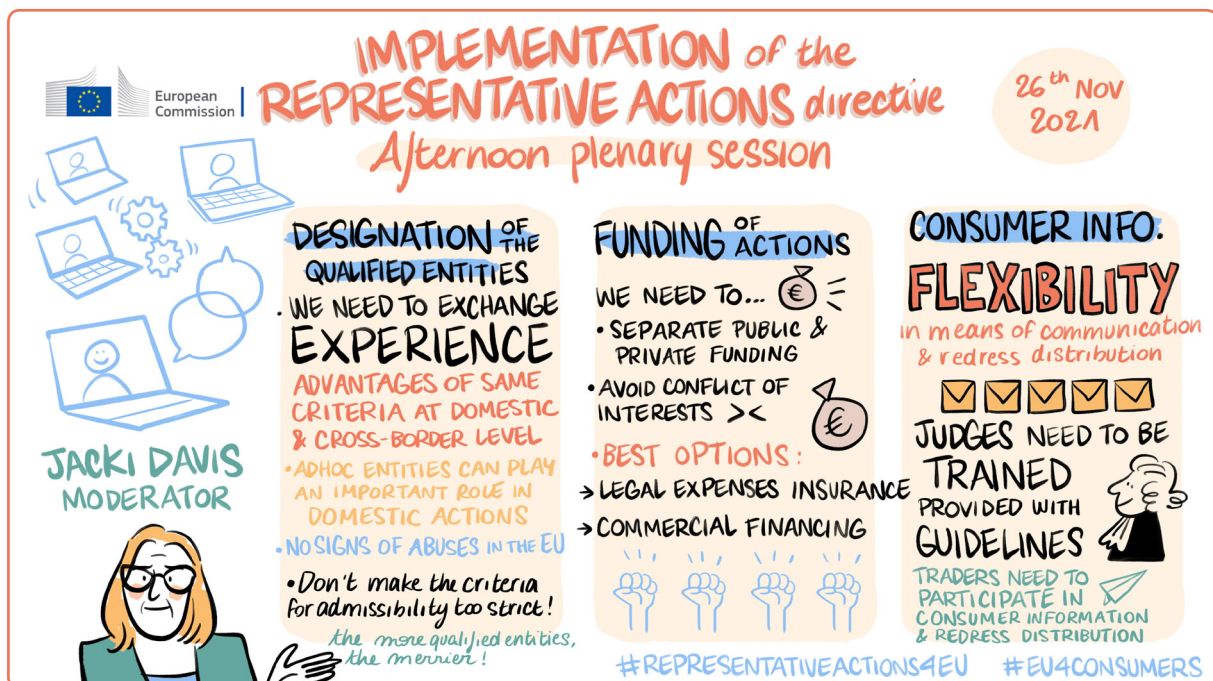
Presenting the main objectives of the Directive, Ms Rodriguez Galindo underscored that the **overall aim** is to ensure that a mechanism for collective redress exists in all EU Member States. A mechanism of representative actions, where **qualified entities** such as consumer organisations and public bodies, will be able to bring actions before national courts or administrative authorities. They will act as a **claimant party** on behalf of groups of consumers, taking away the burden from individuals who often do not have knowledge or time to act on their own when their rights have been breached. Speaking about the **scope of application** of the Directive, Ms Rodriguez Galindo stressed its importance given the fact that consumer rights are embedded in many economic sectors. The scope of application is future proof in the sense that it will be enlarged to new EU legislation as far as it conveys consumer rights. Member States are free to extend under national law the application of the Directive to other areas of law and the protection of other interests, such as the interests of SME's.



WORKSHOP ON THE IMPLEMENTATION OF THE REPRESENTATIVE ACTIONS DIRECTIVE (EU) 2020/1828

The qualified entities will be able to launch actions seeking injunctive measures, redress measures or both at the same time, said Ms Rodriguez Galindo. Injunctive measures aim to cease or prohibit the infringements. Redress measures are a true added value of this Directive and shall require a trader to provide groups of consumers with relevant remedies. Importantly, the consumers need to be able to benefit from these remedies without having to bring another separate legal action. The **remedies** may take the form of compensation, repair, replacement, contract termination, as appropriate and as available under Union or national law, depending on specific case and the type of the infringement. Importantly, the Directive aims to facilitate **cross-border actions**. In line with the principle of mutual recognition, the courts or administrative authorities of each Member State will be - in principle - obliged to accept qualified entities designated under the Directive by other Member States. Moreover, the Directive ensures the possibility for a **pan-European** representative action understood as an action within which consumers from several Member States or even all of the European Union are represented.

When asked about the issues deliberately not addressed by the Directive, she pointed out the substantive rules determining remedies available to consumers in specific cases, the rules of private international law, as well as detailed rules on how to coordinate individual, collective and public enforcement actions.



IMPLEMENTATION of the REPRESENTATIVE ACTIONS directive
Afternoon plenary session
26th Nov 2021

European Commission

DESIGNATION OF THE QUALIFIED ENTITIES
• WE NEED TO EXCHANGE EXPERIENCE
ADVANTAGES OF SAME CRITERIA AT DOMESTIC & CROSS-BORDER LEVEL
• ADHOC ENTITIES CAN PLAY AN IMPORTANT ROLE IN DOMESTIC ACTIONS
• NO SIGNS OF ABUSES IN THE EU
• Don't make the criteria for admissibility too strict!
the more qualified entities, the merrier!

FUNDING OF ACTIONS
WE NEED TO... €
• SEPARATE PUBLIC & PRIVATE FUNDING
• AVOID CONFLICT OF INTERESTS ><
• BEST OPTIONS:
→ LEGAL EXPENSES INSURANCE
→ COMMERCIAL FINANCING

CONSUMER INFO. FLEXIBILITY
in means of communication & redress distribution
☑☑☑☑☑
JUDGES NEED TO BE TRAINED PROVIDED WITH GUIDELINES
TRADERS NEED TO PARTICIPATE IN CONSUMER INFORMATION & REDRESS DISTRIBUTION

JACKI DAVIS MODERATOR

#REPRESENTATIVEACTIONS4EU #EU4CONSUMERS

The workshop broke off into **three parallel thematic debates**, each exploring the main regulatory choices under the Representative Actions Directive linked to the topics discussed.



PANEL 1: Designation of qualified entities/admissibility of actions

Rapporteur:

Prof. Dr Xandra Kramer, Erasmus University Rotterdam and Utrecht University, Netherlands.

Panellists:

Raphaël Chauvelot-Rattier, Ministry of Economy and Finance, DGCCRF, France;

Luis Silveira Rodrigues, Vice-President, DECO, the Portuguese Association for Consumer Protection;

Jolanda Girzl, Senior Policy Counsel/Senior Legal Advisor at Swedish Trade Federation, Business Europe;

Prof. Dr Georg Kodek, LL.M., Judge at the Austrian Supreme Court, Professor at Vienna University of Business and Economics.

The panel examined **the criteria for the designation of the qualified entities, which actors are eligible to apply for the status of qualified entities** as well as the issue of **admissibility of actions before courts and administrative authorities**.

Discussion focused on whether for **domestic and cross border representative actions** the designation criteria should be the same. There are advantages in having only one set of criteria. This would ensure common standard for the qualified entities also in the framework of the domestic actions. However, this may constitute an impediment for smaller organisations as the burden of showing that they fulfil all the criteria for cross-border actions, as set up by the Directive, may be too high for them.

Speakers discussed possible role of **ad hoc entities** designated for bringing a specific domestic representative action in contrast to qualified entities designated in advance for different actions. Panellists tended to agree ad hoc entities may play an important role, in particular in specialised fields where the more generic consumer organisation may lack the specific knowledge. A question arose as to whether the ad-hoc organisation should abide to specific, stricter designation criteria. Member States should also ensure that no loop-holes are created whereby entities that would cease fulfilling the criteria as longstanding qualified entities could easily qualify as ad-hoc qualified entities.

On **admissibility**, the panellists agreed that the rules have to be very simple since the defendants would contest compliance with the criteria. With regard to the similarity of the claims that can be represented in one action, this should be interpreted as broadly as possible. By way of example, in Austria, the standard is 'essentially' the same course of actions or 'essentially' the same question of law or facts. Another suggestion was that it should not be necessary that the contractual situation of each individual consumer is the same but the origin of the harm should be the same.

There was no firm conclusion on which option Member States should select. Member States come with a different background and national context, so from this diversity comes different choices. An interesting approach mentioned was 'the more the merrier' when it comes to designating qualified entities, within the parameters of the Directive. It is a complex process to decide which option to apply. It is still helpful to define different options and the advantages and disadvantages of each.



Conclusions:

- Member States should assess the systems for collective actions that are already in place and seek to capitalise on the systems of designation of qualified entities that are already working and adjust the elements which are not.
- Sharing of experience and best practice between Member States is important.

Prof. Dr Xandra Kramer reiterated that some Member States have significant experience in the field and their collective redress systems work well, while others have less experience or no functioning systems at all. She concluded by saying that in her view, the criteria for designation of qualified entities and admissibility of actions should not be too difficult or the bar set too high. There is no evidence of abuse of litigation in the EU so far, so the transposition of the Directive should be seen as an 'opportunity', where flexibility can be applied.

Please see detailed report from 1st thematic debate:
<https://rad-workshop-2021.eu/page-2921>

PANEL 2: Funding of actions and public assistance to qualified entities

Rapporteur:

Prof. Dr Ianika Tzankova, Tilburg University, Netherlands.

Panellists:

Paulien van der Grinten, Senior Legislative Lawyer, Ministry of Justice and Security, Netherlands;
Augusta Maciuleviciute, Senior Legal Officer, Team Leader, BEUC, the European Consumer Organisation;
Erwan Bertrand, Head of Single Market Policy, Eurochambres;
Thomas Kohlmeier, Co-CEO and Partner, Nivalion, Switzerland.

The panel discussed issues related to the **funding of representative actions and public assistance** for qualified entities. Member States are obliged to ensure that the costs of actions do not prevent qualified entities from effectively exercising their right to seek injunctive and redress measures. Panellists looked into possible options including legal aid by the state, public funding of entities or actions, legal expense/legal protection insurance, public funds to be constituted via undistributed proceeds from collective redress (*cy-près*), commercial third-party financing, and individual contributions by consumers.

The panel concluded that **legal and state aid** is not a sufficient option since justice systems are in crisis in recent years with insufficient public financing in other areas, so it is not realistic to expect funding for collective redress. This may also contradict the principle of separation between public and private enforcement and potentially could create conflict of interest for jurisdictions that have horizontal systems of collective redress, where actions could be brought against the state, state entities, or businesses the state wants to protect. **Individual contributions** from consumers, as well as **contingency fees** were not considered practical either.

An option to explore remains the public fund via *cy-près*, which is allowed by the Directive but rarely used in the EU for now.



Legal expense insurance appears to be a workable solution. However, it is currently available only to consumers, not to qualified entities, and the coordination between the various insurers could be complicated.

Panellists acknowledged the importance of **commercial third party financing**, that may help access to justice, but underlined that it is expensive. In terms of safeguards, self-regulation is an option which seems to have worked so far. It will need to be assessed carefully whether more rules are needed, as the current approach of a case-by-case assessment by courts appears sufficient. Third party funding may become less expensive if combined with legal expense insurance.

The panel identified other effective measures based on the current practice in the Member States. For example, it appears that in Portugal there is a **cap on the adverse costs** to be paid by the qualified entity if it loses the case, which facilitates their participation and lowers their financial risk. In the Netherlands, the costs of litigation covered by the **loser pays principle can include the fee of the commercial third party funder** (retrieved from the losing trader in addition to the damages awarded to consumers).

Conclusions:

- Without adequate funding there is no access to justice. To fund representative actions effectively, a combination of sources is needed depending on the context in each Member State.
- Some of the more efficient solutions appear to be legal expense and legal protection insurances, commercial third party funding or a public fund constituted via undistributed proceeds from collective redress.
- The rules on the allocation of procedural costs can alleviate certain financial burdens and risks for the qualified entities.

Prof. Dr Ianika Tzankova concluded that a holistic approach is needed for financing. A combination of funding sources may be needed, including legal aid and legal expenses insurance, depending on the setting. She recommended that Member States carry out a 'sanity check' to see what already exists in their jurisdictions, rather than simply selecting some of the options outlined in the Directive which might not work in a given country or may not be sufficient to ensure access to justice in that particular jurisdiction. She also recommended investing in training of judges as an important step, developing guidelines and best practices for the judiciary, not only as regards financing of actions but all dimensions of the mechanism of collective redress which are new to most judges across the EU.

Please see detailed report from 2nd thematic debate:
<https://rad-workshop-2021.eu/page-2921>



PANEL 3: Consumer information, participation in actions and redress distribution

Rapporteur:

Prof. Dr Magdalena Tulibacka, Emory University School of Law, Atlanta, Emory University School of Law, United States.

Panellists:

Andreia Luz, Legal Adviser, Consumer Law Service, Ministry of Economy and Digital Transition, Portugal;

Paolo Martinello, President of Altroconsumo Foundation, Italy;

José María Campos Gorriño, Legal Director, CEOE, the Spanish Confederation of Business Organizations, Spain;

Prof. Dr Stefaan Voet, Associate Professor of Civil Procedure, Faculty of Law, Leuven Centre for Public Law, Belgium.

Speakers agreed that consumers' information on representative actions, consumers' participation in the representative actions, and distribution of redress sought within these actions are the **interlinked topics** that denote fundamental aspects of the mechanism set out by the Directive. Without appropriate consumers' **information** there will be no participation or compensation, so that is the right that comes first. Relevant national rules must be **flexible** to ensure that the means of communication fit with the circumstances of each specific case. A colourful example from Italy was cited, where in a particular instance the information mandated by a court was deemed ineffective. However, a flash mob information campaign was carried out in a train station in a case against a train company, which was an innovative and effective way to inform the public about the case. All costs of information aimed at collecting the group of relevant consumers should be reimbursed to the qualified entity if it wins the case. The importance of informing consumers about the action as early as possible to ensure their interest in the case was also underlined. It was considered that defendant **traders** need to participate in distributing information on ongoing actions as well as those that are completed, since they are best placed to know who the consumers concerned by the action are and have their contact details. The role of national and European registers of representative actions in disseminating coordinated information was also discussed.

On whether an '**opt-in**' or '**opt-out**' approach is better as regards the way in which consumers should explicitly or tacitly express they wish to be represented in the action and benefit from it, consensus was that a mix of both is needed. Diverse characteristics of possible cases must be taken into account. There were very strong views in favour of 'opt-out' in cases of low value or where consumers are difficult to be identified individually. There were also strong views that the question on whether the 'opt-in' or 'opt-out' should apply ought to be decided by the court or administrative authority on a case-by-case basis.

Regarding **redress distribution**, there was significant concern that a reform of national substantive laws may be needed. Panellists felt it important not to overcompensate and certainly not to institute punitive damages on one hand, but to ensure the effective distribution of redress on the other hand. Member States need to reflect on whether to allow courts to assess the damages in groups or sub-groups and what should be decided regarding the money awarded within an action but not claimed by individual consumers within the prescribed time limits. It was agreed, that in principle the courts should decide on the concrete amounts of compensation to be recovered individually by each consumer. The solution that exists in Spain is that consumers receive the awarded compensation



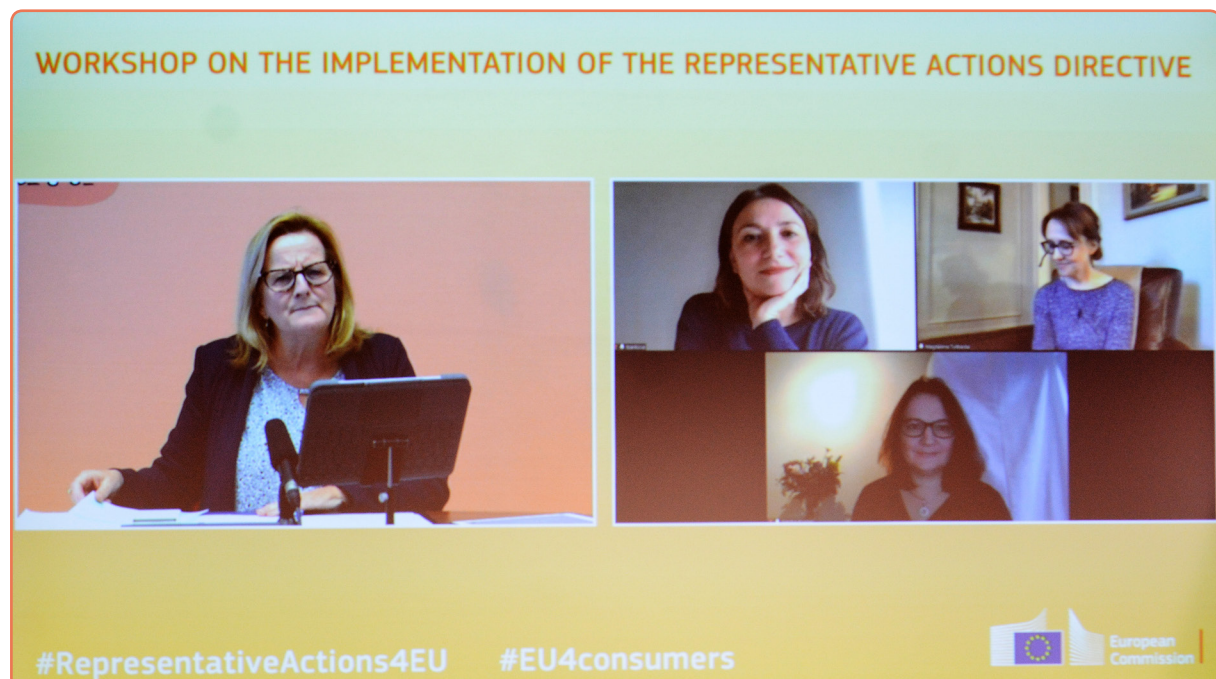
WORKSHOP ON THE IMPLEMENTATION OF THE REPRESENTATIVE ACTIONS DIRECTIVE (EU) 2020/1828

directly from the defendant trader after presenting the relevant evidence. In Belgium, the courts may appoint an administrator whose role would be to distribute redress funds. In Portugal, the court appoints redress fund manager. The compensation awarded but not claimed by individual consumers is transferred to the Ministry of Justice to support access to justice objectives and does not go back to the infringing trader.

Conclusions:

- The way in which consumers should be informed about representative actions should be decided on a case-by-case basis; the qualified entity should be free to establish the best communication strategy, in addition to the information means decided by the court. Traders need to participate in informing consumers concerned on ongoing actions as well as those that are completed.
- Most appropriate solution seems to be the mix of 'opt-in' and 'opt-out' with the choice made by the court or administrative authorities, case by case, according to criteria established by the law (such as value of individual damage or the size and characteristics of the group).
- Assessment of damages and distribution of redress may pose important practical difficulties. Member States should reflect on the need for specific solutions that would ensure the effective distribution of redress among consumers as well as the deterrent effect of the mechanism.

Prof. Dr Magdalena Tulibacka concluded that national representative actions mechanisms must be flexible enough to allow cases to be processed efficiently. She said that judges need to be trained to specificities of representative actions and corresponding procedural managerial tools. An exchange of best practice among judges would appear very helpful in this regard.



Please see detailed report from 3rd thematic debate:
<https://rad-workshop-2021.eu/page-2921>



AFTERNOON PLENARY SESSION



‘Class actions have an incredible impact on citizens across the world, on corporate entities, on the justice system, and public policy’

*Prof. Dr Catherine Piché, Associate Dean, Research & International Affairs,
Faculty of Law, University of Montreal*

The Canadian model

Keynote speaker **Prof. Dr Catherine Piché**, shared her experiences of collective redress in Canada. In her talk, she outlined the characteristics of the Quebecois model of class actions, stating that the system has been particularly effective in protecting consumers. Through the procedural mechanism of the **‘opt-out’ class action**, consumers across Canada can access local courts to obtain redress against domestic or foreign defendants. They possess the negotiating power to reach out of court settlements with defendants at any point. However, the general uniformity in policy across the provinces regarding consumer collective redress is mitigated by the fact that civil procedure and substantive private law, including consumer redress and consumer law, are within provincial legislative competence.

She said, *‘Overall, the Canadian legal landscape provides significant, steady, and reliable access to justice to consumers’*. *Consumer claims are brought almost exclusively by way of class actions for which damages are commonly awarded through a judgment or a court approved settlement, benefitting aggrieved consumers directly.*



The class action system was **introduced in Canada in 1978**, when Quebec became the first Canadian province to introduce such legislation, followed by the other provinces. Three main objectives for lawmakers to consider were identified: to **improve judicial efficiency, afford greater access to justice for individuals, and achieve behaviour modification of misfeasors.**

Consumer legislation in Canada is concerned with **contract or transactional issues**, including the regulation of certain types of consumer contracts, and **prevention of unfair business practices** that affect consumers. The main distinction between Quebec and the rest of Canada is that the Quebec provisions do not require that the class action be the “preferable procedure”. The preliminary hearing on certification filters unfounded or frivolous cases and permits defendants to avoid having to respond to untenable claims on the merits. This answers some of the concerns about abusive litigation. Once certification has been confirmed, the case can proceed to trial and judgment or settlement. The nature of relief is **compensatory damages** for pecuniary losses, reparatory measures, or sometimes, but less frequently, injunctions. Punitive damages are also allowed in consumer law class actions, even where no compensatory damages are awarded in consumer law class actions, to guarantee behaviour modification. When a class action case ends in trial, an assessment is made of aggregate awards and sampling evidence is used to award damages to the class collectively, on an average or proportional basis. In all Canadian jurisdictions, individuals can participate in claim recovery distributions process either individually or collectively, and reparatory measures are also possible and frequent. The court will dispose of any remaining balance in the same manner as when remitting an amount to a third person, while always taking into consideration the members’ interests (the ‘*cy-près*’ power).

Collective redress works for consumer claims

Firstly, collective redress **works when the procedural system is conceptualised broadly**. Class actions are a well-entrenched form of litigation in Canada, and few jurisdictions around the world have articulated an ‘access to justice norm’ as a rationale for adopting a class action.

In Europe efforts have been made to restrict the use of class actions for private enforcement by consistently referring to new procedures as collective redress mechanisms. Lobbying efforts led by the Chamber of Commerce of the United States have encouraged European policymakers to avoid American-style class actions. But Canada does not have American-style class actions and there is no evidence of abuse. In Canada, the class action is conceptualized according to the ‘entity’ approach. It is not a group of claims collected together for litigation purposes. The class action is a ‘entity’, set to litigate as such and protected as such, procedurally speaking, through class action notices, a right to opt-out, a protective judge, for example. The opt-out procedure enhances access to justice for members, by allowing for the creation of larger classes, wider distributions of compensation, and broader binding effects of judgment.

Secondly, a collective redress system **works if a broad legal standing is given to the qualified claimant**. In Canada, class actions are typically commenced with one or more named individuals acting as class representatives if they have ‘sufficient interest’ in the action. The notion of sufficient interest is interpreted broadly and as a malleable concept that must reflect the collective and representative nature of the class action, and it permits an entity or person without a direct and personal interest in the claims against the defendant to represent the class.

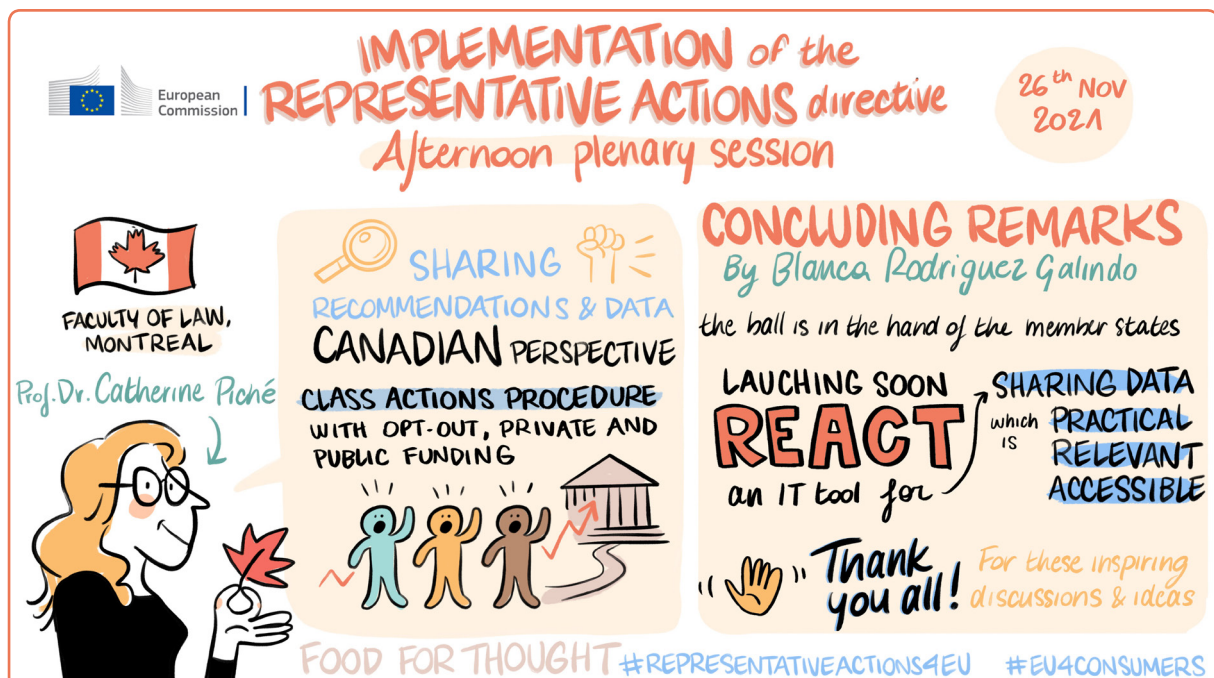
Thirdly, consumer-related collective redress **works when funding of class action is recognised and provided**. The ideal, healthy formula is one that combines contributions by attorneys, the state, and private entities. Courts recognised commercial litigation funders as valuable sources of funding, while scrutinising relevant arrangements to protect the interest of the class. The public fund is another piece of the puzzle.




WORKSHOP ON THE IMPLEMENTATION OF THE REPRESENTATIVE ACTIONS DIRECTIVE (EU) 2020/1828


Class actions have served to compensate millions of consumers, and to litigate incredible cases. They have also contributed to developing consumer law. Prof. Dr Piché said it would be beneficial for Europeans to favour a **broad approach to legislative interpretation** in the context of collective redress law, such as to give the full effects of the benefits foreseen by the drafters. Access to justice should be seen as access to fair outcomes. She said, *'What is required is access to just results, not simply to process for its own sake'*.

Prof. Dr Piché stressed the **importance of the public fund ('Fonds d'aide aux actions collectives')** under the responsibility of the Ministry of Justice, which is a very successful core element of the Quebec system: *'Providing public fund assistance is vital to financing class litigation'*. In Quebec close to 50% of all class actions are financed through the public fund. The cost of litigation is prohibitive, the delays are too long, the system is often asymmetric and there are significant economic barriers in place. The objective of the *Fonds* is to ensure funding of class actions but also to disseminate information about class actions. The *Fonds* performs a micro-analysis of the merits of the case to decide whether to grant the assistance request of the class representative. It can assist with both expenses expedient for the preparation or bringing of the class action, including attorney and expert fees, the recipient's costs and other court expenditures including costs of notification notices, and other expenses related. It is well capitalized, initially supported by government subsidies but it is currently a self-financed entity with three sources of revenues. Importantly, it retains a percentage of any recovery made in every class action. In light of access to justice objectives, this right applies to every action, not simply those for which funding was provided. Such a public fund should certainly be an element for Member States to consider in the transposition of the Directive.



IMPLEMENTATION of the REPRESENTATIVE ACTIONS directive
Afternoon plenary session
26th NOV 2021

 European Commission


FACULTY OF LAW,
MONTREAL

Prof. Dr. Catherine Piché

SHARING RECOMMENDATIONS & DATA
CANADIAN PERSPECTIVE

CLASS ACTIONS PROCEDURE WITH OPT-OUT, PRIVATE AND PUBLIC FUNDING

CONCLUDING REMARKS
By Blanca Rodriguez Galindo

the ball is in the hand of the member states

LAUNCHING SOON REACT an IT tool for **SHARING DATA** which is **PRACTICAL RELEVANT ACCESSIBLE**

“Thank you all!” For these inspiring discussions & ideas

FOOD FOR THOUGHT #REPRESENTATIVEACTIONS4EU #EU4CONSUMERS



‘The outcome will be worth the effort, in the benefit of consumers and a fair functioning of the internal market.’

Blanca Rodriguez Galindo, Deputy Director, Head of Unit Consumer and Marketing Law, DG Justice and Consumers

Bringing the workshop to a close, Ms Rodriguez Galindo, thanked all the speakers and participants for their valuable insights and the important role of the parties represented at today’s event: national authorities, entities that will apply for the status of qualified entities, academia, practitioners, business, and consumers themselves. She noted the relevance of the Canadian model, since Canada is a federal system with different provincial judicial systems and authorities, but where the model of class actions nevertheless works well. She said this was promising for the EU context, in which there are similarly diverse judicial systems and legal traditions.

Ms Rodriguez Galindo announced that as part of the European Commission’s engagement on this important issue, the Commission is working on getting representative actions up and running by setting up an **electronic database**, the ‘**REACT** = ‘Representative Actions Collaboration Tool’. This database will support cooperation **between Member States and the Commission** and **cooperation between qualified entities**. The REACT tool has also great potential for **increasing cooperation between judges and administrative authorities** dealing with specific actions. She said that today’s discussion had highlighted the crucial role judges and administrative authorities will play, and confirmed that exchanging best practices and sharing experiences among different jurisdictions is highly important. Ms Rodriguez Galindo also underlined that discussions had shown that the practical functioning of the representative actions will depend much on **the capacities of the qualified entities**. Therefore, the Commission will also support capacity building of potential qualified entities to prepare them for the application of the Directive.

Today’s discussion focused on the different **legislative choices** to implement the Directive, she said. Including a variety of technical aspects, practical experiences, and proposals for effective solutions. She was glad to note that the objective of the Workshop had been reached. Experts representing different sensibilities **drew a concrete picture** of the possible transposition options and **directions for further reflection**.

