

Collective redress two years on



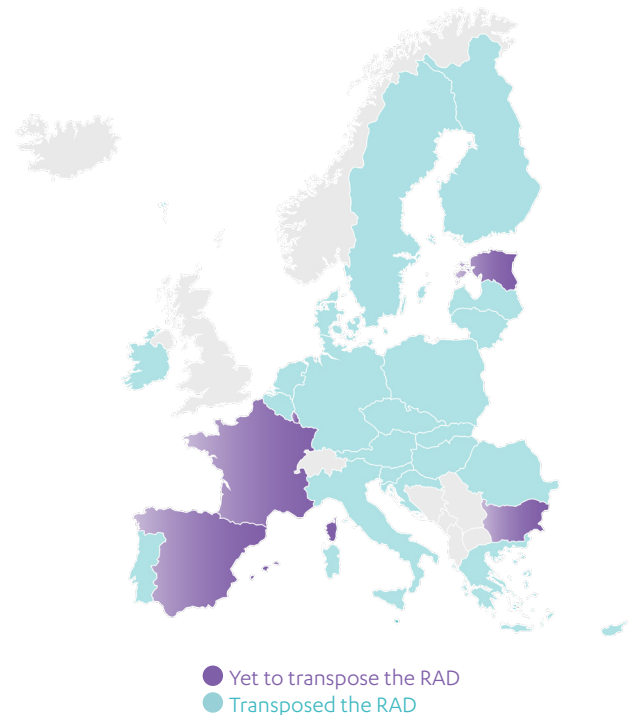
When a group of consumers suffer from the same harm, it is essential they can obtain redress collectively. Yet many are deterred from pursuing individual claims, because legal proceedings can be complex, lengthy, and costly.

Depending on where they live, European consumers have had uneven access to collective redress mechanisms. Until recently, many EU Member States lacked a system to claim rights collectively, leaving consumers without a viable path to justice. This changed in 2020 when the EU adopted its Representative Actions Directive (RAD), which BEUC had long campaigned for.

Two years since its transposition deadline, we have assessed how the milestone law has made a difference on the ground for consumers. Our take: we are on the good track, but we must continue our efforts to make collective redress a reality for everyone in Europe.

Where EU Member States stand

The RAD was adopted on 25 November 2020 and came into force a month later. Member States had two years to transpose the rules into their national systems, which would apply from June 2023.



The Directive gives Member States the discretion to decide on several key procedural issues. This can be about the mechanism to form the claimant group (opt-in, opt-out or a combination of both) or ways to support ‘qualified entities’, i.e. the organisations allowed to bring collective actions.

The transposition turned out to be cumbersome and complex: only three Member States met the December 2022 deadline, 24 missed it, and **as of November 2024, five countries still had to finalise the transposition**: Bulgaria, Estonia, France, Luxembourg and Spain.

Why such delays?

Delays were caused by domestic and/or international reasons. Some Member States, like the Netherlands, already had RAD-compliant mechanisms which required minimal changes. Others like France and Spain seized the opportunity to revise their existing systems. While some countries added RAD-compliant mechanisms alongside existing ones (e.g. Italy), others went for a reboot to avoid multiplying mechanisms, as was the case in Belgium. Finally, in other countries, collective redress was a brand-new concept requiring procedural adaptations and generating lengthy discussions.

Further delays were due to having to pass extra legislation, such as rules on designating qualified entities. This was the case of in Greece, where the RAD was in force in time in June 2023 but additional Ministerial decrees were adopted in early 2024.

At this stage, one thing is certain: the EU rules have led to very different collective redress mechanisms across Europe, and their respective effectiveness to address mass harm situations may vary significantly between Member States.

What BEUC members have done so far

BEUC members have carefully monitored whether their national transpositions fully comply with the EU rules and the objective of the RAD, which is to ensure access to justice for consumers. Where there were concerns that this may not be the case, they raised the alarm with their Member States and the European Commission.

Once the Directive was transposed in their Member States, several BEUC members have sought to become qualified entities. Yet the designation procedure has been lengthy in several countries, leading to further delays. Despite these challenges, **around a dozen BEUC members from roughly half of EU countries** are now qualified entities. More are expected to be designated soon.

Several BEUC members have launched representative actions based on RAD transpositions, which are pending:

ALTROCONSUMO Il tuo punto di forza

In Italy, in July 2024, Altroconsumo filed an action against Verisure, after consumers were misled into believing they were purchasing the Verisure alarm system, when it was in fact only a loan. Altroconsumo asks that harmed customers get a refund of nearly 75% of the amount they disbursed.

Consumentenbond

In the Netherlands, in December 2023, Consumentenbond launched a redress action against Samsung and LG. The claim seeks to recover amounts paid by consumers for TVs that were sold at inflated prices (by up to 29%) due to prohibited price agreements between both companies.

testaankoop **testachats**

In Belgium, in September 2024, Testachats/Testaankoop initiated a collective redress action against Apple. The action follows on the European Commission's antitrust proceedings in which BEUC participated as a third-interested party and will seek compensation for consumers who overpaid for music streaming services due to Apple abusing its dominant market position. Around 55,000 Belgian consumers may be eligible for an average compensation of €122 (depending on the duration of their subscription).

verbraucherzentrale *Bundesverband*

In Germany, in November 2023, vzbv filed four representative actions seeking damages for unfair price increases, involving two energy companies, one natural gas and electricity provider, and one internet service provider. In April 2024, vzbv filed a fifth action against a streaming services provider.



The way forward

To make accessible and affordable consumer collective redress a reality across Europe, we consider the following steps to be essential:

1 **It is vital the RAD fully meets its stated objectives of high level of consumer protection and improved consumers' access to justice.** The European Commission must closely monitor that Member States have fully and correctly transposed the RAD. In some countries, the implementation poses significant challenges for consumer organisations in their role as qualified entities.

2 **Building capacity and knowledge of qualified entities should remain a priority.** The redress actions mentioned above were initiated by well-resourced consumer organisations with prior experience in collective actions. Member States should actively support efforts to build qualified entities' capacity and expertise so smaller players can launch actions too.

3 **Adequate funding is critical.** High costs deter qualified entities from pursuing collective redress. For instance, in Ireland, high court costs, a ban on third-party litigation funding, and lack of State funding create major barriers for collective redress. Member States should prioritise public funding including structural support for qualified entities, establishing a public fund for representative actions funded by fines. Such funds already operate in non-EU countries like Canada, Chile and Israel. In parallel, private funding, including **third-party litigation funding**, should be easily accessible whenever public funding falls short. Financing collective redress can be achieved through complementary sources which are not mutually exclusive.



4

Making cross-border representative actions possible. Today, existing EU private international law rules make cross-border representative actions hardly possible and costly. EU lawmakers need to revise EU regulations on jurisdiction and applicable law to contractual and non-contractual obligations to adapt existing rules to the specificities of collective redress.

5

All stakeholders in the collective redress ecosystem need to be equipped to ensure collective redress mechanisms deliver. This includes exploring how new digital tools can help designated and prospective qualified entities, as well as judges to handle mass claims.

6

Bridging public and private enforcement. Effective enforcement requires complementarity between public enforcement led by authorities and private enforcement. To do so, public authorities should facilitate follow-on actions ensuring redress to consumers. EU decision makers should pay close attention to the role of representative actions during the future revision of the EU Regulation on the Consumer Protection Cooperation Network. The EC-REACT platform, developed by the European Commission in the context of representative actions and available for qualified entities, judges and national contact points, could be further used in the future to bridge public and private enforcement.

BEUC and its members are committed to strengthen efforts to ensure that accessible consumer collective redress is reality in every EU Member State.

Follow our activities on collective redress [here](#).