

FROM COLLECTIVE HARM TO REDRESS

what's new

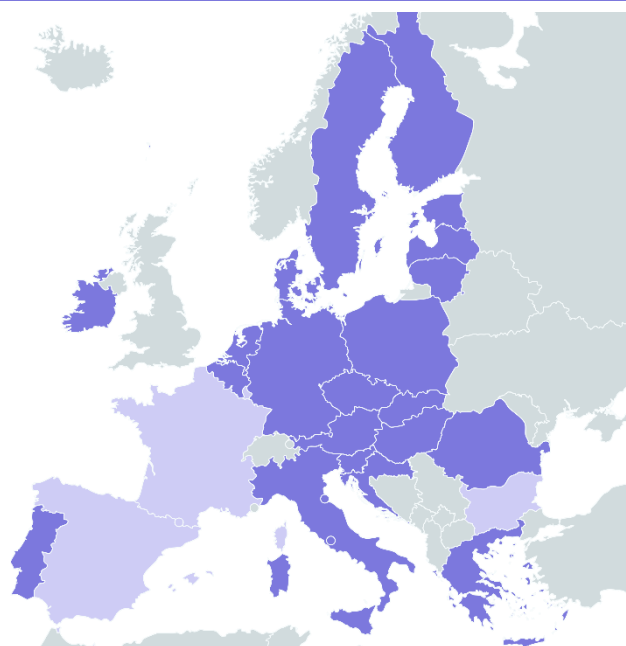
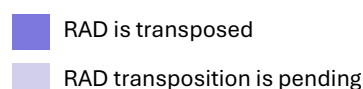
Newsletter third issue, February 2025

Contents

RAD roll-out.....	2
Best practices of national transposition	4
Big Tech in the spotlight	4
Other major legal actions and judgements	7
Latest updates from the Court of Justice of the EU.....	7
Events	8
Key outputs to watch	9
Stay connected and engaged.....	9

RAD roll-out

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



More than two years after the transposition deadline of 25 December 2022, 4 EU Member States have yet to transpose the RAD into their national laws.

The most recent country to complete transposition is Estonia. The [national law](#) implementing the RAD was adopted on 18 December 2024 and entered into force on 1 January 2025. In the lead-up to the second reading of the draft, two key issues were debated: whether government agencies should be designated as qualified entities - an option the Ministry of Justice sought to exclude in favour of non-profit consumer associations - and the minimum number of affected consumers required for a representative action to be admissible.

The final law confirms that three agencies - the Consumer Protection and Technical Supervisory Authority, the Financial Supervisory Authority, and the Data Protection Inspectorate - are designated as qualified entities *ex lege*, as originally proposed. At the same time, the Ministry of Justice's amendment setting a threshold for admissibility was included in the law: at least 10 consumers must join a claim brought by a consumer organisation, and at least 20 in cases filed by a government agency.

Although 4 Member States still have not transposed the RAD, there have been some recent developments:

- **Bulgaria:** The unstable political situation makes it hard to predict whether the law transposing the RAD can be discussed and adopted swiftly. Following the snap parliamentary elections held on 27 October 2024 and the inability to form a government, on

2 February the President dissolved the National Assembly and set 2nd April as the date for another early elections.

- **France:** On 31 October 2024 the Government tabled [draft law No. 529](#) “on various provisions for adaptation to European Union law”. Articles 14 to 19 of the draft transpose the RAD into French law. On 27 November the Legal Committee issued its opinion on the draft, proposing [an amendment](#) that significantly expands its scope. The amendment not only incorporates the changes required by the RAD, as in the original proposed text, but also broadens the standing to act and extends the collective actions regime to cover all infringements, creating a unified framework for collective actions in France. The draft and proposed amendments are currently under discussion in public meetings of the leading Committee handling the file, with public sessions held on 22 January, 17 February, and 18 February. Discussions and amendments can be accessed [here](#).
- **Luxembourg:** On 20 December, the Council of State issued its [opinion](#) on the [amended draft](#) of the transposing law, which was published in April 2024. The report contains several formal oppositions, meaning further amendments to the current draft by Parliament are expected. The Council of State identified multiple areas of legal uncertainty, inconsistencies, and incomplete provisions in the draft law, including imprecise terminology and misalignment with existing procedural rules.
- **Spain:** In November, the provisions transposing the Directive into Spanish law were removed from the draft law issued by the Government in March 2024, which was part of a broader judicial reform and has since been [adopted](#). A new proposal to transpose the Directive has yet to be issued. Spanish consumer associations – members of BEUC – have strongly criticised this delay. [ASUFIN](#), supported by other associations including CECU, has submitted an official complaint to the European Commission, while a number of consumer associations, including [OCU](#), have urged the Spanish Government to introduce a new legislative text that adequately regulates collective actions without any further delay.

Best practices of national transposition

Under the RAD, every Member State must have at least one collective action mechanism that complies with the Directive. This mechanism must apply to representative actions brought against traders for infringements of EU laws listed in Annex I, including their national transpositions. However, the RAD does not prevent Member States from extending the scope of their collective action mechanisms to additional areas beyond those specified in Annex I.

Several Member States have taken this approach, broadening the application of their RAD-compliant frameworks to cover additional infringements. Notable examples include Austria, Belgium, Czechia, Estonia, Germany, Greece, the Netherlands, Slovakia, and Slovenia. By contrast, many Member States have strictly adhered to the closed-list approach set out in the RAD, limiting collective redress to the specific areas of law listed in Annex I. This approach has been followed by Croatia, Denmark, Finland, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, and Romania.

Extending collective redress to all cases of mass consumer harm – rather than restricting it to specific legislative acts – ensures equal protection for all consumers. Countries such as Austria, Estonia, Czechia, Germany, and the Netherlands have adopted broader frameworks that apply to all consumer disputes, setting a strong example of best practice.

A key shortcoming of the RAD's Annex I list is the exclusion of competition law. As a result, access to collective redress for competition infringements depends on whether a Member State has chosen to include this area within its national framework. This leads to unequal treatment of consumers across the EU, with some able to seek compensation for identical harm while others remain without recourse.

Big Tech in the spotlight

vzbv launches class action against Meta over Facebook data leak

Following the Germany's [Federal Court of Justice ruling of 18 November 2024](#), on 9 December the Federation of German Consumer Organisations (vzbv), member of BEUC, launched a [class action against Meta Platforms Ltd.](#) in the Hanseatic Higher Regional Court of Hamburg. The lawsuit seeks compensation for millions of Facebook users in Germany affected by the 2021 data leak, which exposed personal information of 533 million users worldwide, including six million in Germany. The lawsuit prevents claims from becoming time-barred at the end of 2024 and allows consumers to claim damages of at least €100 for the loss of control over their data. Users will be able to join the class action once the Federal Office of Justice opens the register of claims, expected in early 2025.

Dutch court allows privacy class action against Google to proceed

On 15 January, the Amsterdam District Court ruled that the Foundation for the Protection of Privacy Interests (SBP) can proceed with its collective lawsuit against Google over large-scale privacy

violations. The case, supported by BEUC's Dutch member [Consumentenbond](#), seeks compensation for millions of Dutch Google users affected by the company's alleged unlawful data collection and sharing practices. The court rejected all of Google's objections, finding that SBP adequately represents affected users and has sufficient support for the case, with over 160,000 participants. SBP is demanding €750 per user as compensation and has also requested that the court determine damages based on the value of the personal data collected by Google.

OCU takes Apple to court over music streaming overcharges

On 6 February, BEUC's Spanish member OCU [filed a lawsuit against Apple in Spain](#), accusing it of abusing its dominant position in the music streaming market and unfairly overcharging iPhone and iPad users. The lawsuit follows the €1.8 billion fine imposed by the European Commission in March 2024 for Apple's anti-competitive practices on the App Store. The claim argues that Apple restricted competition by preventing music streaming apps from informing users about cheaper subscription options outside the App Store, ultimately forcing consumers to pay up to 30% more.

In Spain, the overall loss for consumers is estimated at €25,110,000, with the average damage per consumer ranging between €39 and €200 depending on streaming platform. OCU is demanding that Apple refund the affected users. Similar legal actions have been launched, though not yet filed in court, in Belgium, Italy, and Portugal by [Testachats](#), [Altroconsumo](#), and [DECO Proteste](#), respectively, as part of the Euroconsumers alliance.

Apple proposes \$95 million settlement in Siri privacy lawsuit

On 31 December, the plaintiffs in the case *Lopez et al v. Apple Inc.*, No. 19-04577, in the U.S. Northern District of California court, sought court approval of the [proposed settlement](#) of \$95 million to address allegations that Siri, Apple's voice-activated assistant, recorded private conversations without users' consent and shared them with advertisers. The class action claims that Siri was unintentionally activated, resulting in unauthorised data collection. It covers devices used between 17 September 2014 and 31 December 2024, with eligible users potentially receiving up to \$20 per device. Apple has denied the allegations but proposed a settlement to resolve the claims. The court's approval of the settlement is pending. Meanwhile, a similar case involving Google's Voice Assistant is pending in California.

£650 million class action filed in the UK against Motorola for overcharging emergency services

In December 2024, a [£650 million opt-out class action lawsuit was filed against Motorola](#) in the UK Competition Appeal Tribunal. The lawsuit alleges that Motorola exploited its dominant market position in breach of competition law by charging excessive and unfair prices for Britain's emergency services to use Airwave, its secure radio network, between 2020 and 2023. The lawsuit reflects findings by the UK Competition and Markets Authority (CMA), which concluded that Motorola

overcharged for Airwave and ordered the company to lower prices. The lawsuit seeks compensation for 400 to 2,000 affected class members.

UK Competition Appeal Tribunal certifies £7 billion class action against Google

On 22 November the UK CAT issued its judgement that certifies [a £7 billion opt-out class action against Google](#), allowing the case to proceed to trial. The claim alleges that Google used its dominance in search engine services to overcharge advertisers, resulting in higher costs being passed on to consumers. The opt-out class action covers UK-domiciled consumers aged 16 and over who purchased goods or services from businesses using Google's search advertising services between 1 January 2011 and 7 September 2023. The claim is supported by findings from the UK Competition and Markets Authority, the European Commission, and the US Department of Justice, which have all identified Google's practices as anti-competitive.

The CAT has refused certification of a competition law class action against Apple and Amazon

On 14 January, the CAT [refused to certify](#) collective proceedings order (CPO) in a opt-out collective proceedings against Apple and Amazon. The case alleged that the companies' "brand gating" agreements led to higher prices for Apple products on Amazon's UK website. The CAT found that the proposed class representative (PCR) did not meet the necessary authorisation criteria, citing concerns over funding arrangements and the representative's ability to act in the best interests of the class. This marks the first time the CAT has outright rejected a mass action claim at the certification stage.

TikTok and X face collective lawsuits in Germany over data practices and disinformation

In February, TikTok and X were hit with [four collective lawsuits](#) in Germany under the DSA, the GDPR and the AI Act. The cases, brought by the Dutch Foundation for Market Information Research (SOMI) before the Kammergericht Berlin, allege that both platforms engage in unlawful data processing, user manipulation, and the spread of disinformation, particularly during elections. The lawsuits seek multi-billion-euro compensation for millions of affected users in Germany, with claims ranging from €500 to €2,000 per TikTok user and €750 to €1,000 per X user. The action also calls for stronger child and youth protection measures, particularly targeting TikTok's AI-driven recommendations and allegedly exploitative design.

Other major legal actions and judgements

UK Competition Appeal Tribunal dismisses first opt-out competition class action to proceed to trial

On 19 December, the [UK CAT unanimously dismissed *Le Patourel v BT Group*](#), the first opt-out collective competition claim to go to trial. The £1 billion claim, brought on behalf of over 3.7 million BT customers, alleged unfair pricing of residential telephone landline services by the UK telecoms operator. The claim relied heavily on the UK telecoms sector regulator Ofcom's 2017 findings, which raised concerns about BT's pricing for standalone landline services, leading to voluntary price cuts by BT. However, the CAT ruled that while BT's prices were excessive compared to a competitive benchmark, they were not unfair as they reflected the economic value of the services provided, and there was no abuse of dominance.

Latest updates from the Court of Justice of the EU

CJEU holds hearing in Apple App Store case on key questions of courts' territorial jurisdiction in mass harm cases

On 10 December, the Grand Chamber of the CJEU held a hearing in [case C-34/24 *Stichting Right to Consumer Justice et Stichting App Stores Claims*](#), which involves collective damages actions brought by Dutch foundations against Apple Inc. (based in the US) and Apple Distribution International Ltd. (based in Ireland). The lawsuit seeks compensation for harm allegedly caused to users of the Netherlands' Apple App Store under the Dutch class actions law (*Wet Afwikkeling Massaschade in Collectieve Actie – WAMCA*), following Apple's alleged infringements of competition law. The Amsterdam court has referred several questions on the territorial jurisdiction of courts to the CJEU, focusing on the identification of the place of the harmful act, the applicability of national referral rules for concentrating related claims, and whether users' registered offices can be used as connecting factors to determine the place where the damage occurred.

CJEU ruling clarifies consumer organisations' legal standing in financial disputes

On 16 January, the [CJEU ruled](#) in the case C-346/23 *Banco Santander v. AUGÉ* that consumer organisations can represent individual members in disputes over complex financial products but cannot automatically claim legal aid in such cases. Banco Santander challenged consumer

association's standing, arguing that high-value investments were outside the scope of consumer protection. The CJEU ruled that national courts cannot deny consumer organisations the right to represent individuals based on the economic value of the investment or its complexity. However, it also found that national legal aid rules may restrict support for cases involving speculative financial products, as such investments are not considered ordinary consumer transactions.

CJEU rules that national ban on group actions for cartel damages may violate EU law

On 28 January the Court [ruled](#) in the case C-253/23 – ASG 2 that a national law preventing group actions for cartel damages may infringe EU law if no other effective collective redress mechanisms are available and individual claims are excessively difficult to bring. The case arose in Germany, where 32 sawmills claimed they had overpaid for roundwood due to a cartel operated by the Land of North Rhine-Westphalia between 2005 and 2019. The sawmills assigned their compensation rights to ASG 2, a legal services provider, which then filed a group action in its own name. However, the Land challenged ASG 2's standing, arguing that German law does not allow such claims. The CJEU emphasised that EU law guarantees the right to compensation for harm caused by competition law infringements but leaves Member States to set procedural rules, provided they uphold the principle of effectiveness. If a national law bans the only available form of collective redress and makes individual actions practically impossible, it may breach EU law.

Events



- On 4 December, another edition of the **“Judges & Collective redress” webinar** took place, as part of the series launched in 2022 and co-organised by BEUC and the European Commission. The objective of the webinar series is to raise awareness about collective redress and to exchange about the benefits and new challenges posed by the resolution of mass claims. Attendance to these webinars is reserved to judges, members of the judiciary and public officials of the Member States.
- On 26 March, BEUC will host an **online workshop on the results of a comparative legal study** on procedural rules and their impact on collective redress where the research team will present their comparative analysis covering Belgium, Germany, Italy, and Poland, along with their key conclusions and recommendations, followed by the Q&A.

If you are interested and would like to participate in our future events, don't hesitate to contact us at enforcement@beuc.eu!

Key outputs to watch

In March, BEUC will publish the results of a comparative legal study on procedural rules and their impact on collective redress, focusing on the following three topics:

1. Quantification of (immaterial) damage, especially in cases of online infringements;
2. Burden of proof, access to evidence and disclosure of information;
3. Financing of collective redress actions, with a focus on third-party funding and court fees.

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@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 first two issues of this newsletter on the BEUC website [here](#) and [here](#).

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