UDC 366:[339.13:004.738.5; 366.542
CERIF: S 155, S 130
DOI: 10.51204/Anali_PFBU_25102A

Emilia MIŠĆENIĆ, PhD[*]

Marina ŠIROLA, LL.M.[**]

THE ROAD AHEAD: CHALLENGES TO THE EFFECTIVE ENFORCEMENT OF THE EU REPRESENTATIVE ACTIONS DIRECTIVE[***]

The rise of digital technology has driven progress but also enabled large-scale national and cross-border consumer law infringements. Unlawful digital practices threaten the internal market and the EU's goal of high consumer protection. Directive (EU) 2020/1828 on representative actions aims to enhance enforcement by balancing access to justice and litigation abuse. Its key contribution is to ensure that consumers can seek injunctions and redress in all Member States. However, while a step forward, the Directive does not fully resolve issues of standing and funding, which hinder access to justice and effective enforcement. Addressing these challenges depends on the creativity and flexibility of national legislators, lawyers, and courts to make representative actions more practical and effective. This article examines the impact of the Directive and argues that additional efforts are crucial to overcome its limitations and ensure meaningful consumer protection across the EU.

Key words: *Collective interests of consumers. – Funding. – Locus Standi. – Qualified entities. – Representative Actions.*

---

[*] Professor, University of Rijeka Faculty of Law, Croatia, *emilia.miscenic@pravri.uniri.hr*, ORCID iD: 0000–0002–2695–9186.

[**] Doctoral student, University of Rijeka Faculty of Law, Croatia, *marina.shirola@pravri.uniri.hr*.

[***] The co-authored paper was fully supported by and presented at the International Scientific Conference of the University of Rijeka, *Transparency and Fairness in the Digital Environment Project* (uniri-iskusni-drustv-23–101), held at the Faculty of Law in Rijeka on 10 February 2025.

1. INTRODUCTION

Effective access to justice ensures the protection of substantive rights because it entails a fundamental human right to a remedy. According to Homburger (1974, 343) and Cappelletti (1989, 272–273), collective access to justice is one of the most fascinating features and important achievements of modern litigation. It overcomes the legal protection deficits of individual litigation, such as legal uncertainty, ignorance of substantive or procedural rights, and rational apathy due to a negative cost-benefit analysis of litigation as a more efficient and feasible enforcement mechanism, making unviable cases viable (Nagy 2019, 20). In the current era of globalisation and digitalisation, a single unlawful practice can cause large-scale consumer detriment. However, the European legislator's ongoing efforts to create a system that can effectively protect consumers and achieve the internal market – as the main goal of EU law, but which differs significantly from the US-style opt-out class action – has been characterized by legal scholars as a 'trial-and-error approach' (Uzelac, Voet 2021, 3). The previous Injunctions Directive 98/27/EC[1] failed to achieve the Union's objective of effective enforcement. This is because it merely provided for the cessation or prohibition of harmful practices, without compensation for damages.

In the context of a David vs. Goliath scenario in consumer protection, it was imperative to introduce a procedural mechanism capable of providing injunctions and redress remedies, to ensure that the internal market was a level playing field for traders and consumers. Consequently, the Representative Action Directive (EU) 2020/1828[2] (RAD) was adopted on 25 November 2020, as the culmination of a complex political and policy-making process, characterized by compromise, industry pressure, lobbying and differing national considerations (Hodges 2013, 68–78). Member States were given a two-year period to transpose the RAD by 25 December 2022, and a six-month window to implement and apply it from 25 June 2023.[3] This paper argues that locus standi and funding, as the most important elements

[1] Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumer interests, OJ L166/51 of 11 June 1998 repealed and replaced by Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumer interests, OJ L110/30 of 1 May 2009.

[2] Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC, OJ L 409 of 4 December 2020.

[3] Arts. 22–25 RAD.

of access to justice, must not be subordinated to the fear of abusive litigation in order to achieve the effectiveness of representative actions. As analysed by Nagy (2019, 53), the possibility of abuse in both individual and collective litigation is directly proportional to its effectiveness. Moreover, Nagy (2019, 35–38) demystifies the 'abuses' of the US class action as a contextual result of the regulatory environment of the legal system itself, characterised by the concept of the 'private attorney general', a highly litigious society, an entrepreneurial model of lawyering, jury trials, and extensive pre-trial discovery. These features are all alien to the conservative European legal tradition. The same opt-out mechanism used by ten European Member States has not led to a flood of litigation. In addition, the use of US-style class actions is flourishing in Australia and Canada, but their legal systems are more in line with European principles than the US regulatory environment (Nagy 2019, 55–59; Voet 2017, 5–6).

This paper provides a critical overview of standing and funding as (un) surmountable challenges to effective judicial enforcement of representative actions. The lack of regulatory oversight of third-party funding (TPF) can also hamper standing, particularly in cases where concerns arise about conflicts of interest that need to be assessed by the courts. Section 2 provides a brief description of the issues that have preoccupied national legislators during the transposition process of the RAD. Section 3 addresses the cornerstone issue of collective interests as a procedural requirement for the admissibility of representative actions. Section 4 deals with the intricacies of the criteria for designating qualified entities and their impact on access to justice. Section 5 provides a comprehensive overview of the issue of standing and the limitations imposed by judicial interpretation. Section 6 deals with the rules on funding, which can make or break representative actions. Section 7 offers concluding remarks and highlights the added value of legal creativity, judicial flexibility, and pragmatism in filling the gaps.

2. THE CHALLENGES INTRODUCED BY THE TRANSPOSITION OF THE REPRESENTATIVE ACTIONS DIRECTIVE

Ever since collective redress began its journey in the EU three decades ago, the efforts of both European and national legislators have highlighted the existing conflicting interests of business and civil society[4] (Mucha 2020).

[4] Commission staff working document, public consultation, Towards a Coherent European Approach to Collective Redress, SEC (2011) 173 final, of 4 February 2011, point 11.

The former warned of potential abuses, while the latter argued for improved access to justice and more effective consumer protection. The only point of consensus was the need for coherence, as discrepancies and inconsistencies lead to parallel litigation and forum shopping.[5] The transposition of the RAD reflects the same dilemma in identifying the optimal approach, as collective redress in the EU remains less accessible and less comprehensible (Đurović, Kaprou 2020, 165; Biard 2018, 192–193). The RAD was designed as a 'principle-based instrument of minimum harmonization' to complement national legal frameworks only 'where and when necessary' (European Commission 2021, 4). Member States are free to choose approaches that reflect the political, cultural, social, economic, customary and traditional particularities of their legal systems and are the product of a thorough understanding of the practical problems and challenges. The effectiveness of the RAD depends heavily on such procedural choices and will undoubtedly cause friction with the traditional principles of procedural law (Rott 2020, 223). Galič and Vlahek (2019, 215) identify Slovenia as a notable example of the 'do's and don'ts' in the field of litigation reform. Slovenia has successfully navigated domestic legal constraints and utilised best practices, resulting in a significant increase in the number of representative actions (Galič, Vlahek 2019, 245–247).

Another challenge are digitalisation and alternative strategies for litigation through internet platforms, which are rather neglected by the RAD. The Digital Fairness Fitness Check of EU consumer law in 2024 revealed limited effectiveness, efficiency, relevance and coherence in consumer protection and application of EU consumer legislation (Mišćenić, Tereszkiewicz 2024, 230). The accelerated growth of online marketplaces and transactions has exposed digital consumers to an increased risk of potential mass damage cases. The use of consumer data as a form of currency in exchange for 'free' services has become a common practice, where consent is often obtained by default and consumers are even unaware of the profit generated for companies (Đurović 2024, 18). This phenomenon has led to the recent excessive adoption of diverse and fragmented EU legislation, which is more related to digitalisation than to the effective protection of consumers' rights and interests. Consumer detriment in the EU is estimated at EUR 7.9 billion per year, while the annual cost to businesses of complying with the directives

[5] *Ibid*.

is EUR 511–737.3 million.[6] According to the Digital Fairness Fitness Check 2024, the average consumer, defined in the case law of the CJEU as a 'reasonably well informed and reasonably observant and circumspect person', becomes weak and vulnerable in the digital environment, where he is exposed to various unfair digital commercial practices and techniques (Namysłowska 2024, 255; Mišćenić 2024, 100–102). Enhanced procedural protection of substantive consumer rights, which has always been recognized as a fundamental objective of the EU consumer law (Hess, Law 2019, 5–8; Pavillon 2023, 65–68),[7] has become one of the priorities of the future Digital Fairness Act. This objective is at the same time one of the main priorities for the national courts, which must ensure the effective protection of consumer rights combined with the uniform interpretation and application of EU law (Mišćenić 2019, 130).

At the EU level, the transposition of the RAD proved to be a difficult and complex undertaking, characterised by delays due to different national contexts, extensive or limited procedural changes, fierce business opposition, political instability, the impact of the pandemic, the cost-of-living crisis, and international tensions (Biard-Denieul 2024, 754–757). Of the 27 Member States, only the Netherlands, Hungary and Lithuania had transposed the RAD by the end of the transposition period, i.e. on time. As a result, the Commission launched infringement proceedings against 24 Member States, which were stopped after transposition into national law.[8] The results was a kaleidoscope of different procedural requirements for the designation of qualified entities, standing and financing, which will be analysed in the following sections. It is essential to determine whether the obstacles to standing and funding are sufficiently substantial to make the exercise of the right to bring representative actions impossible or excessively difficult.

---

6 European Commission, Commission Staff Working Document Fitness Check of EU consumer law on digital fairness, Brussels, 3 October 2024 SWD (2024) 230 final, 86, and the following Study to support the Fitness Check of EU consumer law on digital fairness and the report on the application of the Modernisation Directive (EU) 2019/2161, 4 October 2024.

7 Art. 12 of the Consolidated version of the Treaty on the Functioning of the European Union, OJ C 202, 7 June 2016, in line with Arts. 38 and 47 of the Charter of Fundamental Rights of the European Union [2016] OJ C 202/391.

8 The Croatian transposition of the RAD in the Act on representative actions for the protection of the collective interests and rights of consumers, OG 59/23 is in force from 25 June 2023.

3. WHO IS REPRESENTED BY THE REPRESENTATIVE ACTIONS DIRECTIVE?

The RAD is responsible for representing the interests of consumers in a number of key areas listed in its Annex 1, including but not limited to unfair contract terms, financial services, product liability and safety, media, telecommunications, energy, and the General Data Protection Regulation (EU) 2016/679 (GDPR).[9] In line with the principle of procedural autonomy, Member States may decide on the number of individual consumers to be represented by a representative action and limit its scope to the protection of collective interests or to include the individual interests of members of a consumer association, as long as the procedural mechanism functions effectively and efficiently.[10] In the *Banco de Santander* case, C-346/23, Advocate General Medina stated that the Member States' discretion to determine the scope of an action is subject to the requirement of a 'useful effect' in line with the objectives of a directive.[11] Moreover, the interpretation of the concept of 'collective interests' by competent authorities may be unclear and inconsistent, even within the jurisdiction of a given Member State (Safjan, Gorywoda, Janczuk 2009, 197–200). The vague and negative definition of the former Injunctions Directive 98/27/EC, where collective interests were not a 'cumulation of interests of individuals who have been harmed by an infringement',[12] was problematic in terms of enforcement (Safjan, Gorywoda, Janczuk 2009, 173–176).

A comprehensive strategy on the concept of collective interest was needed to ensure harmonisation and accountability. The RAD defines collective consumer interests as the general interests of consumers or the interests of a group of consumers for the purposes of compensation, repair, replacement, price reduction, termination of the contract or reimbursement of the price paid.[13] The representative action should identify or, at least describe the individual consumers as members of the group of consumers entitled to benefit from a redress measure, despite the fact that they are not

[9] Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) [2016] OJ L 119/1.

[10] Opinion of AG Medina to the case C-346/23, Banco Santander (Représentation des consommateurs individuels), ECLI:EU:C:2024:690, paras. 37–59.

[11] *Ibid*., paras. 59–74.

[12] Rec. 3 of the Injunctions Directive 2009/22/EC.

[13] Art. 2 in line with Art. 3 (3) (10) RAD.

plaintiffs in the proceedings.[14] The term 'group of consumers' is understood to denote natural persons who have been harmed or may be harmed by infringements, provided that these persons are acting for purposes which are outside their trade, business, craft or profession, regardless of the label used to refer to them as travellers, users, customers, retail investors or clients, data subjects, etc.[15] The champions of the consumer organization model of collective redress are qualified entities, designated by Member States, which can be a claimant party in the proceedings and can seek an injunctive measure, a redress measure or both on behalf of consumers (Đurović, Kaprou 2020, 164). A qualified entity is defined as any consumer organization or public body. However, small or medium-sized enterprises and individual plaintiffs, for-profit entities and consumers themselves are excluded from the definition.[16] The limited category of persons who can initiate a representative action may affect its overall effectiveness (European Commission 2017, 259).

Collective redress should not be exclusively available to a select number of authorized entities with limited capabilities for damage compensation.[17] The RAD is more conservative than the EU Commission's 2013 Recommendation, which took into account the state of play in the Member States and proposed to extend the locus standi to a 'group of two or more natural or legal persons', who have suffered individual damage in a mass harm situation.[18] On the positive side, the provisions for wider action can still be applied in this respect.[19] Member States may continue to adopt or maintain provisions giving standing to other natural or legal persons, as long as at least one procedural mechanism is in line with the RAD, in order to give consumers more choice.[20] In Portugal, the 'more the merrier' approach with opt-out has been in effect since the 1990s, allowing even a single citizen to bring

14 Art. 9 (5) RAD.

15 Rec. 14 RAD.

16 Art. 3 (4) RAD.

17 As argued in the Opinion of the European Economic and Social Committee on Defining the collective actions system and its role in the context of Community consumer law of 25 June 2008, OJ C 162/1, 12.

18 Art. 3 (a) of the Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union law, OJ L 201/60 of 26 July 2013.

19 Art. 1 (2) RAD. See also Art. 7 of the former Injunctions Directives 98/27/EC 2009 and 2009/22/EC.

20 Recs. 11, 12 and 18 and Art. 1 (2) RAD enable more choices for consumers to select which national collective redress mechanism to use.

a collective action, with no abuse of litigation in sight (Rodrigues 2022, 5). The Netherlands is the only country that has used ad hoc qualified entities and has the most plaintiff-friendly approach to representative actions used on behalf of companies, investors, employees or in the public interest (Angstmann 2024).

4. THE COMPLEXITY BEHIND THE CRITERIA FOR DESIGNATION OF DOMESTIC AND CROSS-BORDER REPRESENTATIVE ACTIONS

The process of designating qualified entities acts as the first 'gatekeeper' in terms of access to justice, facilitating or hindering representative actions (Rott 2020, 224). There are two different categories of representative actions: domestic and cross-border. The first category is subject to the discretion of the Member States, contingent upon the requirement of effectiveness. The second category is subject to a series of requirements, including 12 months of actual public activity in the protection of consumer interests, a legitimate interest demonstrated by a statutory purpose, a non-profit character, solvency, independence, and transparency.[21] If the representative action is brought in the Member State where the qualified entity is designated, it is considered to be domestic, irrespective of the existence of cross-border elements, such as the defendant being a trader domiciled in another Member State or the representation of consumers from several Member States.[22] Conversely, if the action is brought in a Member State other than the Member State of designation, it is considered to be cross-border. This is based on striking a balance between effectiveness and safeguards (Amaro *et al.* 2018, 15). The competent authority can review the criteria for designation every five years, and the court can reassess the criteria if traders claim that a qualified entity no longer fulfils them during litigation.[23] Such claims by traders have become routine in Germany as collective redress has become more effective, while the criteria for entities not (at least partly) funded by the state have been tightened. This has led to delays and an apparent reluctance to register new entities (Rott 2020, 223–224).

[21] Recs. 25–27 and Art. 4 (3) RAD.

[22] Rec. 23 RAD.

[23] Art. 5 (3) and (4) RAD.

An ad hoc entity or opt-out principle is reserved for domestic actions.[24] Member States may apply the same restrictive cross-border designation criteria to domestic actions.[25] Such a decision by a Member State with an already dysfunctional collective redress mechanism could create a 'Catch-22' scenario and act as a barrier to the aggregation of claims. Domestic actions are not burdened by the same complexities as cross-border actions (e.g. increased financial costs, language barriers, ignorance of foreign law, favoured or less favoured legal systems, evidence and assessment of all the circumstances of the infringement) to require the presence of the same safeguards against abusive litigation (Poretti 2019, 339–362). Stricter criteria do not help consumers to use representative actions; they only create unnecessary bureaucracy, slow down designation procedures and prevent consumer organisations from acting quickly to fulfil their statutory purpose. One set of criteria is partly justified by the need for a common standard, but it is too burdensome for smaller organisations (European Commission 2021, 6).

For effective enforcement, the bar for the designation and eligibility criteria should not be set too high (European Commission 2021, 7). Associations already struggle with financial incentives and human resources to prepare cases. As noted by Biard and Kramer (2019, 250–256), Member States vary in their experience with collective redress and the effectiveness of their systems. It is important to recognise that litigation abuse is implausible in Member States with dysfunctional collective redress systems, where the number of initiated collective actions is very low or non-existent. There has been no abuse of collective redress in Europe, so the implementation of the RAD should be seen as an 'opportunity, where flexibility can be applied' (European Commission 2021, 7). The purpose of the so-called 'placebo' legislation, which only exists to appease industry, must be questioned if it has minimal impact (Amaro *et al.* 2018, 30–31).

Finally, the complexity of the designation criteria depends on the views of the shareholders: consumers consider them to be too strict, while businesses argue that they do not offer sufficient guarantees to prevent abuse because they are general, superficial and imprecise. According to Mucha (2020, 23–24), the RAD has not addressed several issues. The first issue is how the non-profit character of qualified entities can be demonstrated and verified by the court. Secondly, the ad hoc qualified entity for certain representative actions is contrary to the business environment. Third, the RAD does not prohibit

[24] Rec. 26 and Art. 4 (5) (6) RAD.

[25] Art. 4 (5) RAD.

lawyers and litigation funders from being members of qualified entities, so the risk of using qualified entities for profit making is not prevented (Mucha 2020, 23–24).

5. THE LOCUS STANDI ROLLERCOASTER: BETWEEN LEGAL REGULATION AND NATIONAL JURISPRUDENCE

Following the research design in Amaro *et al.* (2018, 30–31), the legal capacity to bring an action to represent consumer interests before the courts of the Member States, granted either to a member of the group, or to a public or private body, is a problematic issue, due to the strictness and differences in the national frameworks. Locus standi depends on the sector, the remedy sought (injunctions or damages) and the nature of the consumer interests involved (individual, collective, or diffuse).[26] This could lead to different designation procedures for qualified entities. The transposition of the RAD has also led to a plethora of legislative choices and a judicial rollercoaster on the issues of standing and funding. A 'one size fits all' solution remains elusive. Representative actions are driven by the need to prevent parallel litigation in different Member State jurisdictions, although the means to achieve this are unclear (Stöhr 2020, 1613).

The RAD's intention to harmonise only cross-border collective redress through mutual recognition of locus standi has left the Member States with considerable leeway for domestic actions. As a result, the specificity of the procedural rules on standing and funding of representative actions in each Member State may lead to different interpretations of the scope of consumer interests and restrictions on standing. The following text will further illustrate this problem using the example of one Member State, namely the Croatian collective redress case on the protection of consumer interests against the use of unfair contractual terms in CHF consumer credit agreements in Croatia, and the CJEU's position on enforcement issues. The collective redress system in Croatia can hardly be described as functional (Uzelac 2014, 60–68). The first and only collective redress proceeding on the assessment of the unfairness of contractual terms in CHF consumer credit agreements, also known as the Franak case, raised issues of standing, collective interest and effectiveness of consumer rights protection (Mišćenić 2023a, 231; Mišćenić 2019, 231). In 2011, an action for an injunction brought before the Zagreb Commercial Court by the newly established

[26] The latter two categories are predicated on the assumption that consumers may or may not be easily identifiable or determinable.

association Franak against seven commercial banks was dismissed as inadmissible for lack of standing. The fragmented, complex and inconsistent nature of Croatian consumer protection legislation was a contributing factor. The Franak association was unable to identify the key provision determining which Croatian entities were qualified to bring collective redress actions. To remedy this, Franak signed a cooperation agreement with the Croatian Union of Consumer Protection Associations – Consumer, which initiated the proceedings on its behalf in 2012. The collective redress proceedings experienced significant difficulties in all their aspects, from procedural to substantive, mostly related to issues concerning the guarantee of effective protection of consumer rights, and ended almost ten years later, in 2022, with the ECtHR judgment dismissing the applicant banks' complaints regarding the alleged violation of Article 6(1) of the European Convention on Human Rights (Mišćenić 2023b, 118–123).[27]

In its case law, the CJEU distinguishes between the standing of consumer associations and the issue of funding, in terms of legal aid and possible abuse of procedure, as in the *Banco Santander* case concerning dual-purpose contracts.[28] The preliminary question referred by the Spanish Supreme Court was whether national courts may exceptionally restrict the standing of consumer organisations in cases where claims are considered frivolous or unfounded.[29] The aim was to prevent 'fraudulent or wrongful use of standing', circumvention of procedures and abuse of legal aid schemes. It was also important to consider whether legal aid should be granted in such circumstances and whether individuals represented by the consumer association should be exempted from paying court fees.[30] Spanish jurisprudence is broadly consistent in allowing consumer associations to defend the interests of their members under the previous MiFID,[31] except in the case of 'speculative or high-value financial products', unless they are

[27] ECtHR case *OTP banka d.d. and others v Croatia* of 8 November 2022, Applications Nos. 38541/21, 39015/21, 39063/21, 39167/21 and 41145/21, para. 16.

[28] CJEU, case C-346/23, Banco Santander (Représentation des consommateurs individuels), ECLI:EU:C:2025:13, para. 78. Opinion of AG Medina to CJEU, case C-346/23, Banco Santander (Représentation des consommateurs individuels) ECLI:EU:C:2024:690, para. 65–74.

[29] *Ibid*., Banco Santander, paras. 22–25.

[30] *Ibid*., Banco Santander, para. 24.

[31] Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, OJ 2004 L 145, 1.

'common, ordinary and widespread'.[32] In its previous case law on markets for financial instruments and the conditions for relying on consumer status, the CJEU has established that factors such as classification as a 'retail client', transaction value, risk of financial loss, knowledge, expertise or behaviour (e.g. high volume of transactions in a relatively short period of time or investment of significant sums) are irrelevant in determining whether or not such persons can be classified as consumers.[33] When interpreting EU law, it is necessary to consider the explicit wording, as well as the broader context and objectives of the legislation.[34]

In the absence of an explicit provision, it is essential to determine whether the collective dimension and purpose of an action should be limited to defending the general interests of consumers, or whether it may also include individual interests, leaving it to the law of the Member State to determine the qualified entities and the procedural rules for representation. Member States retain the prerogative to determine the standing of qualified entities, the individual or collective nature of the interests defended, and the detailed procedural rules.[35] In the absence of EU legislation on legal aid for consumer organisations and in accordance with the principle of procedural autonomy, Member States shall lay down such rules, provided that the principles of equivalence and effectiveness are respected. These rules must not make it excessively difficult or impossible in practice to exercise the rights conferred by EU law.[36] In the *Banco Santander* case, the CJEU found no evidence that the procedural rules did not comply with the principle of equivalence. The absence of legal aid does not undermine the principle of effectiveness, provided that the court fees to be paid by an association 'do not constitute insurmountable costs which are likely to make it impossible or excessively difficult in practice to exercise the right of action provided by EU substantive law, which it is for the referring court to ascertain'.[37] National case-law restricting the capacity of consumer associations to represent the interests of individual consumers with dual status as investors on the basis of the

[32] CJEU, case C-346/23, Banco Santander (Représentation des consommateurs individuels), ECLI:EU:C:2025:13, para. 19.

[33] CJEU, case C-500/18, Reliantco Investments and Reliantco Investments Limassol Sucursala Bucureşti, EU:C:2020:264, paras. 44–57.

[34] CJEU, case C-243/21, TOYA, EU:C:2022:889, para. 36.

[35] CJEU, case C-346/23, Banco Santander (Représentation des consommateurs individuels), ECLI:EU:C:2025:13, para. 44.

[36] Banco Santander, para. 57. CJEU case C-448/17, EOS KSI Slovensko EU:C:2018:745, para. 36.

[37] CJEU, case C-346/23, Banco Santander (Représentation des consommateurs individuels), ECLI:EU:C:2025:13, para 61.

value and nature of financial products should be precluded.[38] However, legal aid and exemption from payment of the opposing party's court fees and costs may be restricted on the basis of such criteria.[39]

The CJEU's approach to enforcement is also illustrated by the multifaceted judgments in the *Meta Platforms* cases, which dealt with the protection of both individual and collective interests of consumers, represented by a non-profit consumer protection association, against personal data infringement, unfair commercial practices, and the use of invalid general terms and conditions (Vrbljanac 2024, 270–272).[40] In the first case, *Meta Platforms Ireland*, the question referred concerned the capacity of an association to initiate proceedings on an objective basis, irrespective of the infringement of the rights of individual data subjects and the existence of a mandate to act on their behalf. This question arose in the post-GDPR era, in the context of German civil procedure, which provides that the right to bring an action persists until the end of the proceedings in the last instance.[41] The CJEU's judgment in *Meta Platforms Ireland* demonstrated a significant development that goes beyond the judicial interpretation of locus standi and the admissibility of injunctions under the GDPR. The same happened in the recent case of *Meta Platforms Ireland (Action représentative).*[42] The *Meta* cases demonstrated the CJEU's commitment to strengthening private enforcement of collective redress mechanisms, which are crucial for the protection of consumer's right to privacy and personal data in the digital environment (Vrbljanac 2024, 270–273; Mišćenić 2022, 209). The case law of the CJEU also facilitates a deeper understanding of the significance of collective redress and the procedural aspects of collective access to justice for the enforcement of substantive consumer rights guaranteed by the *acquis*.[43]

---

38 Opinion of AG Medina to CJEU, case C-346/23, Banco Santander (Représentation des consommateurs individuels) ECLI:EU:C:2024:690, para. 92

39 CJEU, case C-346/23, Banco Santander (Représentation des consommateurs individuels), ECLI:EU:C:2025:13, para. 63.

40 CJEU, case C-319/20, Meta Platforms Ireland, ECLI:EU:C:2022:322.

41 Opinion of AG de la Tour to CJEU, case C-319/20, Meta Platforms Ireland, ECLI:EU:C:2021:979, para. 27 and 35.

42 CJEU, case C-757/22, Meta Platforms Ireland (Action représentative) [2024] ECLI:EU:C:2024:598.

43 CJEU, case C-319/20, Meta Platforms Ireland, ECLI:EU:C:2022:322, paras. 67–78.

6. WHO WILL PAY FOR IT? THE KEY ISSUES REGARDING THE PROCEDURAL COSTS AND REPRESENTATIVE ACTIONS FINANCING

Funding determines the viability of collective access to justice. The human and financial resources of qualified entities are limited, and all entities need incentives to initiate representative actions. Regardless of their motivation, litigation becomes a matter of strategy due to lack of funding or experience (Caponi, Novak 2019, 63–93). The lesson from US-style class actions is that the effectiveness of a collective redress system depends on adequate remuneration and incentives for lawyers to represent the collective interests of consumers (Miller 2009, 280–281). Without adequate funding and adjustments to traditional rules, the excellent basic design of substantive and procedural provisions will become irrelevant and nothing more than a 'Potemkin Village' (Howells 2009, 339–343). However, the European legislator has not adequately addressed the issue of funding, leaving it to the Member States. The rules on 'the time limits within which individual consumers may obtain redress' or 'the destination of any outstanding redress funds not recovered within the time limits', are also left to the Member States.[44] The RAD provides a general rule that Member States should ensure that the costs of representative actions do not prevent the effective enforcement of injunctive or redress relief, but at the same time Member States should not be obliged to finance them.[45]

The term 'costs of proceedings' covers a wide range of expenses, including court fees and expenses, fees for legal representation by a lawyer or other legal professional, fees for providing information to consumers, organisational costs, translation of documents and other services. In Europe, the 'looser pays principle' applies (Caponi, Novak 2019, 63–93). This means that the unsuccessful party in a representative action is liable for the successful party's legal costs, unless they were incurred unnecessarily.[46] Individual consumers can only be held liable for the costs of the proceedings in exceptional circumstances, i.e. if these costs were incurred as a result of intentional or negligent conduct, such as unlawful conduct to prolong the proceedings.[47]

---

44 Art. 9 (7) RAD.

45 Rec. 70 RAD.

46 Rec. 38 and Art. 12 RAD.

47 Rec. 38 and Art. 12 (2) (3) RAD.

Support for qualified entities may be provided through public funding, structural support, limited court or administrative fees, access to legal aid, a modest membership fee and third-party funding (TPF). The RAD neither encourages nor prohibits TPF,[48] rather the provisions of the RAD on this issue are general, descriptive and ambiguous, delegating legislative powers to Member States without establishing regulatory measures for TPF and without sufficiently addressing the risks of conflict of interest[49] (AmCham EU 2024, 6). Conversely, concerns have also been raised about the impact of prescriptive regulation on the risk/reward balance for funders. This can lead to a lack of funding and impact on access to justice. The European Law Institute's Principles Governing the Third-Party Funding of Litigation suggest that such regulation is only appropriate where there is a problem or market failure (ELI 2024, 10). The definition of TPF in Europe was not clear-cut and it was advisable to establish an autonomous European definition (Amaro *et al.* 2018, 35–38). Sahani (2017, 405) defines TPF as 'a controversial business arrangement whereby an outside entity – called a third-party funder – finances the legal representation of a party involved in litigation or arbitration, or finances a law firm's portfolio of cases, in return for a profit'. The RAD only requires transparency, independence and the absence of conflicts of interest.[50] Failure to comply with these requirements may result in the court refusing to recognise the legal standing of the qualified entity or declaring the representative action inadmissible.[51] In order to avoid conflicts of interests, it is essential that the TPF's economic interest in the outcome of the representative action is aligned with that of the consumers.[52] A conflict of interest that could potentially lead to abusive litigation is deemed to exist if the third-party funding provider: is a trader operating in the same market as the defendant, is a competitor of/dependent on the defendant, has an economic interest in the representative action or its outcome, or could unduly influence the procedural decisions or the settlement.[53]

Legal doctrine has suggested many funding alternatives. According to Howells (2009, 339–343), the use of the opt-out method in combination with the cy-près doctrine could prove decisive. The cy-près doctrine is an

[48] Crowdfunding, donations within the remit of corporate social responsibility initiatives, or funding through equal contributions by the members of the qualified entity are eligible for third-party funding. Rec.52 (2) RAD.

[49] Art. 10 RAD.

[50] Rec. 52 of the Preamble in line with Art 10 RAD.

[51] Art. 10 (4) RAD.

[52] Art. 10 (2) b. RAD.

[53] Rec. 52 in line with Art 10 (2) RAD.

equitable remedy used by courts to allocate residual funds in class actions after all identified class members have been compensated. These funds can be used for the 'next best use', typically a charitable purpose (Shiel 2015). The controversy stems from the lack of clear, judicially enforced standards for how and when cy-près should be used (Kadri, Cofone 2020). Dayagi-Epstein (2006, 224–225) suggested a multifaceted approach to funding, including contributions from victims and their representatives, legal aid mechanisms, public and private funds, insurance companies and other market actors, contingency fee arrangements with lawyers, and special funds created for the purpose of collective redress. Procedural risks can be mitigated by risk insurance, as is the case in Austria, or by public funding (Stadler 2009, 312). To our knowledge, European law firms do not usually pre-finance litigation and there is still 'little incentive for a race to the courtroom' (Stadler 2009, 321). This trend may be changing, inspired by a number of US law firms acting as litigation funders in the Netherlands (Kramer *et al.* 2023, 5).

Member States could follow the example of the Canadian province of Quebec by establishing a support fund to finance future actions from fines imposed for violations of consumer law, a share of the amount recovered in collective actions, or unclaimed compensation[54] (Piché 2021, 341–342; BEUC 2022, 16–21). The proceeds from trifle losses should also be paid into such a fund rather than distributed, as individual damages are too small and scattered to justify individual litigation, but the aggregate damage on a collective scale is substantial and should be enforced in the public interest[55] (Van Boom, Loos 2007, 250; Micklitz 2007, 14). Consideration should be given to explicitly recognizing the possibility of cy-près in order to gain practical experience and insight into the size of the remaining funds (Kramer *et al.* 2023, 9). The introduction of a sui generis 'skimming off profit claim', with the primary aim of both deterring and depriving the defendant of the economic benefit derived from the illegal conduct, should also be considered as a possible source for future representative actions. The German practical experience with skimming off profit or *Gewinnabschöpfungsanspruch* (germ.), which lies between the law of torts and the law of unjust enrichment, can provide insights into how to optimise these actions (Stadler, Micklitz 2003, 559–562; Stadler 2009, 325–327).

[54] Opinion of the European Economic and Social Committee on Defining the collective action system and its role in the context of community consumer law (own initiative opinion) OJ C 162/1 of 25 June 2008, 17–19.

[55] Proposal for a Directive of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers, and repealing Directive 2009/22/EC, COM(2018) 184 final, of 11 April 2018, 14.

In addition, the introduction of a US-style contingency fee was considered both undesirable and unfeasible in European collective redress but could be useful if combined with appropriate safeguards (Đurović, Kaprou 2020, 170). Moreover, contingency fees are neither foreign nor prohibited in all Member States. In Slovenia, they are generally permitted and regulated as a sui generis TPF arrangement, which allows up to 30% of the collective total, where the attorney assumes the financial risk for all costs, including his representation (Galič, Vlahek 2019, 241). Another example is the Austrian system, where the Consumer Information Association or the *Verein für Konsumenteninformation* (germ.) and a private insurance company (a non-lawyer) enter into *a pactum de quota litis* agreement. The private insurance company refinances the costs of the proceedings for one third of the proceeds in case of success (Stuyck 2009, 81). This agreement covers the procedural risk of litigation and eliminates frivolous and insubstantial claims (Stadler 2009, 312).

At the IBA Annual Litigation Forum 2024, experienced lawyers and academics debated the implementation of the RAD and the practical use of TPF, demonstrating that the effectiveness of the RAD has yet to be ascertained (IBA 2024). The funding of representative actions is affected by different legal regulations on TPF, ranging from strict, medium, liberal to none, which can make funding attractive, unattractive or impossible in a complex situation. Germany has a strict rule limiting the success fee to a maximum of ten per cent of the amount recovered, while Portugal has a more moderate approach of 'a fair and proportionate amount and judicial oversight' (IBA 2024). Spain, on the other hand, has only imposed judicial oversight with no limit on the percentage. This makes Spain more attractive as a cross-border forum. Consumers themselves would have to be more creative in terms of contingency fee arrangements regarding the distribution of the share of the collective total to the TPF (IBA 2024).

Finally, the RAD has yet to exploit the potential of alternative litigation funding strategies in terms of TPF through intermediaries via the internet. Their effectiveness in improving access to justice and the enforcement of large-scale damages is noteworthy (European Commission 2017, 153–156). There is a recent trend of companies offering TPF services through internet platforms, structuring and creating mass claims and acting as intermediaries between legal counsel and disputing parties (Biard, Kramer 2019, 250–256). These companies assume responsibility for all actions in the event of litigation. This includes instructing legal representatives, formulating litigation strategy and negotiating settlements, as well as gathering evidence and filing documents (European Commission 2017, 153). Consumers can take their case to court without financial risk by filing electronically. Such

platforms currently operate in a somewhat unclear legal environment. If left unregulated, various challenges may arise, such as civil procedure issues, reduced consumer compensation, under-enforcement of consumer rights, disputes between the platform and the consumer, information requirements, litigation strategy, and the relationship with individual cases on similar issues (European Commission 2017, 154–156).

7. CONCLUDING REMARKS

The issues of standing and funding of representative actions are important and complex preconditions for access to justice that have been neglected by the European legislator and left to the specific circumstances of each Member State. Different procedural mechanisms in the Member States offer different levels of consumer protection depending on the country of origin. The added value of the RAD in introducing a single procedural mechanism for both injunctive and redress relief is of no consequence if this mechanism is not efficient and effective. This paper shows that these issues are critical to the viability of collective litigation.

First, the complexity of the criteria for designating qualified entities reduces the number of qualified entities that can act as representatives of consumers' interests. If the designation process creates many legal, economic or time-consuming barriers, it may discourage claims and impede access to justice. Strict criteria for designation, as a double obstacle to prevent abuse in litigation are superfluous given the right to reject manifestly ill-founded cases at the earliest possible stage of the procedure. In order to improve access to justice and ensure effective enforcement of representative actions, any consumer association with full legal capacity should be entitled to defend consumer interests. Second, judicial interpretation of the concepts of 'collective interests' and 'conflict of interests' may limit locus standi. The right to dismiss manifestly ill-founded cases at the earliest possible stage of the procedure, in accordance with national law, where there are doubts about conflicts of interest, creates some legal uncertainty. The focus should be on clarifying the issue of doubt and the related procedural framework. Third, the use of TPF in contingency fee agreements is left to the creativity of the consumers themselves.

REFERENCES

[1] Amaro, Rafael, Maria José Azar-Baud, Sabine Corneloup, Bénédicte Fauvarque-Cosson, Fabienne Jault-Seseke. 2018. *Collective redress in the Member States of the European Union*. Study requested by the European Parliament's committee on Legal Affairs. Directorate General for Internal Policies, Policy Department for Citizens' Rights and Constitutional Affairs. PE 608.829. Brussels: European Union. *https://www.europarl.europa.eu/RegData/etudes/STUD/2018/608829/IPOL_STU(2018)608829_EN.pdf* (last visited January 1, 2025).

[2] AmCham EU. 2024. American Chamber of Commerce to the European Union. *EU experiences and risks of unregulated third-party litigation funding*: 1–14. Brussels: AmCham EU. *https://www.amchameu.eu/system/files/position_papers/amcham_eu_tplf_september_2024.pdf* (last visited February 5, 2025).

[3] Angstmann, Luca. 2024. The implementation of the EU Directive 2020/1828 on representative actions for the protection of the collective interests of consumers – the same style in a different colour? *International Bar Association*. *https://www.ibanet.org/implementation-eu-directive-collective-interest-consumers* (last visited January 20, 2025)

[4] BEUC. 2022. *Funding of collective redress: Financing options in the EU and beyond*. Feasibility study of public third-party funding of collective redress actions and recommendation on existing funding options. BEUC:1–33. (last visited February 5, 2025)

[5] Biard, Alexandre. 2018. Collective redress in the EU: a rainbow behind the clouds? *ERA Forum* 19: 189–204.

[6] Biard-Denieul, Alexandre. 4/2024. Thunder Road: The Implementation of the Representative Actions Directive in Europe. *Emory Int'l L. Rev.* 38: 751–765.

[7] Biard, Alexandre, Xandra, Kramer. 2019. The EU Directive on representative actions for consumers: a milestone or another missed opportunity? *Zeitschrift für Europäisches Privatrecht* 249–259.

[8] Capelleti, Mauro. 1989. *The Judicial Process in Comparative Perspective*. Oxford: Clarendon Press.

[9] Caponi, Remo, Janek Tomasz, Novak. 2019. Access to Justice. 63–93 in *Implementing EU Consumer Rights by National Procedural Law*, edited by Burkhard Hess and Stephanie Law. Oxford: Beck, Chicago: Hart, Baden-Baden: Nomos.

[10] Dayagi-Epstein, Orit. 2/2006. Representation of Consumer Interest by Consumer Associations – Salvation for the Masses? *Competition Law Review* 3: 209–249.

[11] Đurović, Mateja. 1/2024. How to protect consumers in the digital era: An example of the online choice architecture. *Annals of the Faculty of Law in Belgrade* 72: 1–20.

[12] Đurović, Mateja, Eleni, Kaprou. 2020. Collective Redress as an Ideal Model of Consumer Redress in the European Union? 161–177 in *The Protection of the Collective Interests of Consumers*, edited by Katarina Ivančević. Belgrade: Pravni fakultet Univerziteta Union.

[13] ELI. 2024. *Principles Governing the Third Party Funding of Litigation*. Vienna: European Law Institute: 1–98.

[14] European Commission. 2017. An evaluation study of national procedural laws and practices in terms of their impact on the free circulation of judgements and on the equivalence and effectiveness of the procedural protection of consumers under EU consumer law. Report prepared by a Consortium of European universities led by the MPI Luxembourg for Procedural Law as commissioned by the European Commission. JUST/2014/RCON/PR/CIVI/0082. Strand 2. Procedural Protection of consumers. Brussels: European Union.

[15] European Commission. 2021. Report of 26 November 2021. Workshop on the implementation of the Representative Actions Directive (EU) 2020/1828. *https://commission.europa.eu/document/download/2f43b95f-bafe-4d6d-9c1b-a88276216f85_en?filename=1_8_197488_summary_report_rad_workshop.pdf* (last visited January 31, 2025)

[16] Galič, Aleš, Ana Vlahek. 2019. Challenges in Drafting and Applying the New Slovenian Collective Actions Act. 215–248 in *Class Actions in Europe, Holy Grail or a Wrong Trail?* Edited by Alan Uzelac and Stefaan Voet. Cham: Springer.

[17] Hess, Burkhard, Law, Stephanie (eds). 2019. *Implementing EU Consumer Rights by National Procedural Law*. Oxford: Beck, Chicago: Hart, Baden-Baden: Nomos.

[18] Hodges, Christopher. 2013. Collective Redress: A Breakthrough or a *Damp Sqibb*? *Journal of Consumer Policy* 37: 67–89.

[19] Homburger, Adolf. 2/1974. Private Suits in the Public Interest in the United States of America. *Buffalo Law Review* 23: 343–410.

[20] Howells, Geraint. 2009. Collective Consumer Redress Reform: Will it Be a Paper Tiger? 329–343 in *New Frontiers of Consumer Protection: The Interplay Between Private and Public Enforcement*, edited by Fabrizio Cafaggi and Hans-Wolfgang Micklitz. Antwerp: Intersentia.

[21] Kadri, Thomas, Ignacio Cofone. 2020. Cy Près Settlements in Privacy Class Actions. 99–112 in Class Actions in Privacy Law, edited by Ignacio Cofone. London and New York: Routledge.

[22] Kramer, Xandra, Ianika Tzankova, Jos Hoevenaars, Karlijn van Doorn. 2023. Utility, necessity, design and costs of a (revolving) litigation fund for collective actions. English Summary. Tilburg University, Erasmus School of Law. *https://repository.wodc.nl/bitstream/handle/20.500.12832/3294/3279-nut-noodzaak-vormgeving-kosten-processenfonds-collectieve-acties-summary.pdf?sequence=3&isAllowed=y* (last visited February 5, 2025).

[23] Mišćenić, Emilia. 5/2022. Case Note on Meta Platforms Ireland (EuGH v. 28.4.2022 – C-319/20). *Zeitschrift für das Privatrecht der Europäischen Union* 19: 206–210.

[24] Mišćenić, Emilia, Piotr Tereszkiewicz. 6/2024. Towards a New Digital Fairness Act! *Journal of European Consumer and Market Law* 13: 229–233.

[25] Mišćenić, Emilia. 2024. Information, Transparency and Fairness for Consumers in the Digital Environment. 81–118 in *Digital Vulnerability in European Private Law*, edited by Camilla Crea and Alberto De Franceschi. Baden-Baden: Nomos.

[26] Mišćenić, Emilia. 2023a. Croatia: Something from Nothing. 223–243 in *The Transformation of Consumer Law and Policy in Europe*, edited by Hans-Wolfgang Micklitz and Christian Twigg-Flessner. London: Bloomsbury.

[27] Mišćenić, Emilia. 3/2023b. Unfair Treatment of Banks in Croatian Collective Redress Proceedings on Swiss Franc Loans. *Journal of European Consumer and Market Law* 12: 118–123.

[28] Mišćenić, Emilia. 2019. The Effectiveness of Judicial Enforcement of the EU Consumer Protection Law. 129–152 in *Balkan Yearbook of European and International Law*, edited by Zlatan Meškić, Ivana Kunda, Dušan V. Popović and Enis Omerović. Cham: Springer Nature Switzerland AG.

[29] Micklitz, Hans-Wolfgang. 2007. Collective private enforcement of consumer law: the key questions. 13–36 in *Collective Enforcement of Consumer Law: Securing Compliance in Europe Through Private Group Action and Public Authority Intervention*, edited by Willem van Boom and Marco Loos. Groningen: Europa Law Publishing.

[30] Miller, Geoffrey. 2009. Compensation and Deterrence in Consumer Class Actions in the United State and Europe. 263–281 in *New Frontiers of Consumer Protection: The Interplay Between Private and Public Enforcement*, edited by Fabrizio Cafaggi and Hans-Wolfgang Micklitz. Antwerp: Intersentia.

[31] Mucha, Jagna. 7/2020. Approaching consumer collective redress in the EU: business-oriented perspective. *Business Law Journal* 73: 22–26.

[32] Nagy, Csongor Istvan. 3/2020. The Long-Awaited Directive on Representative Actions: Still Waiting for Godot. *Revista Ítalo-Española de Derecho Procesal* 2: 127–138.

[33] Nagy, Csongor Istvan. 2019. *Collective Actions in Europe: A Comparative, Economic and Transsystemic Analysis*. Cham: Springer Briefs in Law.

[34] Namysłowska, Monika. 2024. Behind the Digital Curtain: The Need for Digital Transparency to Establish Digital Fairness. *Journal of European Consumer and Market Law* 13: 255–262.

[35] Pavillon, Charlotte. 2023. Effective Judicial Protection, Private Enforcement and the Reshaping of Substantive Remedies. 65–80 in *The Transformation of Consumer Law and Policy in Europe*, edited by Hans-Wolfgang Micklitz, Christian Twigg-Flessner, London: Bloomsbury.

[36] Piché, Catherine. 2019. Empirical Data and the Powerful Lessons Learnt About Class Actions in Quebec. 321–343 in *Class Actions in Europe, Holy Grail or a Wrong Trail?* Edited by Alan Uzelac and Stefaan Voet. Cham: Springer.

[37] Poretti, Paula. 2019. Collective Redress in the European Union: Current Issues and Future Outlook. *EU and Comparative Law Issues and Challenges* Series 3 (ECLIC 3) 339–362.

[38] Rodrigues, Luis Silveira. 2022. Report from discussion paper 1. Workshop on the implementation of the Representative Actions Directive (EU) 2020/1828. *https://commission.europa.eu/publications/workshop-implementation-representative-actions-directive-eu-20201828_en* (last visited February 2, 2025)

[39] Rott, Peter. 6/2020. Editorial. A proper EU collective redress mechanism, finally. *Journal of European Consumer and Market Law 9*: 223–225.

[40] Safjan, Marek, Lukasz Gorywoda, Agnieszka Janczuk. 2009. Taking the collective interest of consumers seriously: A view from Poland. 171–206 in *New Frontiers of Consumer Protection: The Interplay Between Private and Public Enforcement*, edited by Fabrizio Cafaggi and Hans-Wolfgang Micklitz. Antwerp: Intersentia.

[41] Sahani, Victoria. 3/2017. Reshaping Third-Party Funding. *Tulane Law Review* 91: 405–472.

[42] Shiel, Cecily. 2/2015. A New Generation of Class Action Cy Pres Remedies: Lessons from Washington State, *Washington Law Review* 90: 943–991.

[43] Stuyck, Jules. 2009. Public and Private Enforcement in Consumer Protection: General comparison EU-USA. 63–90 in *New Frontiers of Consumer Protection: The Interplay Between Private and Public Enforcement*, edited by Fabrizio Cafaggi and Hans Micklitz. Antwerp: Intersentia.

[44] Stadler, Astrid. 2013. The Commission's Recommendation on common principles of collective redress and private international law issues. *Nederlands Internationaal Privaatrecht* 4: 483–488.

[45] Stadler, Astrid, Micklitz, Hans-Wolfgang. 2003. Der Reformvorschlag der UWG-Novelle für eine Verbandsklage auf Gewinnabschöpfung. *Wettbewerb in Recht und Praxis* 5: 559–562.

[46] Stadler, Astrid. 2009. Group Actions as a Remedy to enforce Consumer Interests. 305–327 in *New Frontiers of Consumer Protection: The Interplay Between Private and Public Enforcement*, edited by Fabrizio Cafaggi and Hans-Wolfgang Micklitz. Cambridge: Intersentia.

[47] Stöhr, Alexander. 8/2020. The Implementation of Collective Redress: A Comparative Approach. *German Law Journal* 21: 1606–1624.

[48] Van Boom, Willem, Marco Loos. 2007. Effective enforcement of consumer law in Europe, private, public and collective mechanisms. 231–254 in *Collective Enforcement of Consumer Law: Securing Compliance in Europe Through Private Group Action and Public Authority Intervention*, edited by Willem Van Boom and Marco Loos. Groningen: Europa Law Publishing.

[49] Voet, Stefaan. 2017. 'Where the Wild Things Are' – Reflections on the State and Future of European Collective Redress. 105–140 in *Waves in Contract and Liability Law in Three Decades of Ius Commune*, edited by Marco B. M. Loos and Anne L. M. Keirse. Cambridge: Intersentia.

[50] Voet, Stefaan, Stien Dethier. 2024. Bridging the EU consumer enforcement pathways in mass harm situations. BEUC: 1–106 *https://www.beuc.eu/sites/default/files/publications/BEUC-X-2024–005_Bridging_the_EU_consumer_enforcement_pathways_in_mass_harm_situations.pdf* (last visited February 25, 2025).

[51] Vrbljanac, Danijela. 6/2024. Non-Transparancy by Design. Case Note on Meta Platforms Ireland (Action représentative). *Journal of European Consumer and Market Law* 13: 270–273.

[52] Uzelac, Alan, Stefaan Voet. 2021. Collectivisation of European Civil Procedure: Are We Finally Close to a (Negative) Utopia. 3–16 in *Class Actions in Europe. Holy Grail or a Wrong Trail?*, edited by Alan Uzelac and Stefaan Voet. Cham: Springer.

Article history:
Received: 7. 1. 2025.
Accepted: 24. 2. 2025.