EJF Monitoring Report 2021

AN ANALYSIS OF COLLECTIVE REDRESS REGULATION IN EUROPE

Brussels, February 2021

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Annex

Executive Summary

With the Directive on Representative Actions having entered into force on 24 December 2020, Member States are now tasked with working on the transposition of the Directive. This Monitoring Report therefore provides an overview of the collective redress mechanisms for 13 selected countries in Europe and the impact that the transposition of the Directive may have.

It appears not yet clear how the Directive will be transposed into the different jurisdictions, due to the current turbulent political landscape, which is likely to affect the transposition of the Directive. COVID-19 has become the governments' priority and this shift in policymakers' focus could slow down the implementation of other non-urgent legislation, as is the case of Collective Redress. Due to Brexit, the Directive will not be implemented into UK national law, although it seems that the UK is following the same direction of travel as the EU. The report shows that it cannot be expected that the transposition process will be concluded any time earlier than towards the end of the transposition period.

Findings show that in many of the countries, existing collective action legislations are not expected to change. Exceptions are France, Ireland, Spain, and all Member States currently without collective actions or without a redress functionality in their existing collective actions. In general though, there is no intention for countries to make any major changes to their domestic mechanisms.

With regards to procedural safeguards, one of the key findings was that on third party litigation funding (TPLF), there is hardly any regulation. TPLF is on rise in countries like Germany, the Netherlands, and the United Kingdom. TPLF is an established way of financing disputes and plays a particularly significant role in the so-called Austrian style class action. In relation to admission safeguards, the analysis showed an important fragmentation of conditions. A key barrier to the potential spreading of class actions domestically is the 'opt-in principle', although this principle is often missing.

Furthermore, a gap analysis was conducted with regards to the Qualified Entities (QE) criteria between the requirements for future cross-border actions in the EU Directive and the national criteria for domestic actions. Only few Member States have already a quite comprehensive national coverage of critieria as requested in the Directive like Germany or Spain. Interestingly, in Denmark and the Netherlands, *ad-hoc* entities may be utilised for domestic representative actions.

From our analysis of court and out-of-court cases, the number of cases remains manageable throughout the EU. However, there are significant differences between the countries analysed. As regards court judgements handed down in Q1/Q2 2020, the Netherlands appears to be the most active country when it comes to collective action judgments.

Introduction

With the Directive on Representative Actions having entered into force on 24 December 2020, Member States are now tasked with working on the transposition of the Directive. For many European countries, the **new Directive represents the first introduction of class action rules**. The Directive will empower Qualified Entities to bring collective actions and seek redress on behalf of groups of EU consumers that have been harmed by 'illegal practices' that breach European laws. It is aimed to **complement existing national collective redress laws and mechanisms**, but not replace them. With the new law, Member States are empowered to implement their own rules governing representative actions.

The aim of this "Monitoring Report" is to provide an overview of the collective redress mechanisms for 13 selected countries in Europe and the impact that the transposition of the Directive may have.

In a **first step** we analysed from a broad perspective the overall European legislative developments. In a **second step** we focus on the **growing market of litigation funding**. Efforts were made in the Directive to control third party funding of redress actions, if allowed by member states. However, the biggest issue remains the diversion of excessive amounts from claimants' compensation to intermediaries. In addition, there is a disconnect between the interests of the claimants and those of the funders. In Europe, cases funded by third parties are meanwhile increasing and spreading.

In the **following sections** we further analyse the **current national situations and developments**. We look at **court and out-of-court cases** involving mass claims and compare the current situation with regards to the **Qualified Entity criteria, and the admission and procedural safeguards** with the future requirements of the directive. Finally, we have included an annex with short **country profiles** for further information on each country report.

Member States have until 25th December 2022 to transpose the Directive into domestic legislation, and an additional six months to apply it. As such, it is worth noting that it will **still be some time before the newly-introduced collective redress mechanisms will be available for consumers.** Moreover, in most Member States, COVID-19 has become the government's priority and this shift in policymakers' focus could slow down the implementation of other non-urgent legislation, such as collective redress.

However, by already analysing the implementation process, the report aims to:

- Follow the **transposition phase** of the Directive on Representative Actions in the EU Member States.
- Support EJF's members in **anticipating challenges and assessing risks** that may arise at national level, following the transposition of the Directive.
- Enable EJF to **assess the implementation of the Directive** and of any issues linked to the new collective redress mechanism, in order to give feedback to the relevant EU institutions on the effectiveness of the Directive.

The countries analysed are: Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Netherlands, Poland, Portugal, Spain, Switzerland and the United Kingdom. Detailed information for each of the 13 countries can be found in the **Annex** that accompanies this document.

EJF would like to **thank the legal network for their efforts in the monitoring reports**, which has allowed us to produce this final analysis. Contributors of monitoring reports include: Dr. Holger Bielesz – Cerha Hempel (Austria); Sébastien Champagne – Jones Day (Belgium); Heidi Bloch – Kennedys Law (Denmark); Nicolas Bouckaert – Kennedys Law (France); Jens Wagners – CMS, and Dr. Herbert Woopen – Director of Legal Policy, EJF (Germany); Dimitris Emvalomenos – Bahas, Gramatidis & Partners LLP (Greece); Aoife Ryan and Andrew McGahey – Kennedys Law (Ireland); Isabella Wijnberg – Houthoff (Netherlands); Dr. Magdalena Tulibacka – Emory Law School (Poland); Inês Gomes da Cruz – PLMJ (Portugal); Alejandro Ferreres Comella – Uría Menéndez (Spain); Philip Dickenmann – CMS (Switzerland); Sarah Croft – Shook, Hardy & Bacon LLP, Kenny Henderson – CMS and Andrew Hunn – Kennedys Law (United Kingdom).

I. European legislative developments

Overall, it is not yet clear how the Directive will be transposed into the different jurisdictions. In terms of the process and timeline, the Directive officially entered into force on 24 December 2020, and Member States now have two years to transpose it into their national legal system. In light of COVID-19, in most Member States analysed, it cannot be expected that the transposition process will be concluded before the end of the transposition period.

In some countries where there is no pre-existing regime for representative actions (such as **Ireland**) and as the Directive leaves to the Member States the task of determining the definition of qualified entities capable of bringing representative actions in the Member State, it could take a considerable period of time to agree upon, and draft, such a definition.

Following the outcome of the Brexit negotiations, the Directive will not be implemented into **UK** national law as the UK officially cut all ties with the EU on 31 December 2020 when the Brexit transition period ceased. However, it would appear that the **UK is following the same direction of travel as that of the EU**, there being an increase in group actions as well as a drive towards implementing 'opt-out' collective action regimes. For instance, in the *Merricks v Mastercard* [2020] case, Mastercard's appeal was dismissed by the Supreme Court in December 2020. This landmark decision is a step closer to the granting of what would be the largest group action in the history of England & Wales. In April 2021, the Supreme Court will hear the appeal in *Lloyd v Google*, which – depending on the judgment – may prompt further data protection class actions.

In other countries, like **Spain**, the transposition of the Directive on Representative Actions is expected to further increase the debate on making civil proceedings more effective, also in the light of increasing multi-case litigation expected from the COVID-19 crisis.

Portugal, which took over the rotating Presidency of the EU Council on 1 January 2021, may decide to lead by example on the implementation of the Directive, which would fasten its transposition pace at national level.

II. Third party Litigation Funding

Overall, in many of the EU countries analysed in this report, **Third Party Litigation Funding (TPLF) is not yet widely used**. However, some countries show a clear sign of accelerated spreading.

In some jurisdictions, TPLF is not yet regulated, as it is the case in **France**, where it is not often used except in arbitration cases where the concept is largely accepted. Similarly, in **Portugal**, to date, no TPLF cases are known to the public as there is no specific regulation of TPLF in the Portuguese legal system nor judicial precedents. Accordingly, to date, it has not been an attractive market for this type of investors. It is important to note, however, that TPLF has been assessed positively and it is likely to gain traction in the near future. Likewise, TPLF is unregulated in **Greece** where such lack of recognition may be a reason that use of collective redress remains very limited. In other countries like **Spain**, the facts that legal standing to bring collective actions is very restrictive, and that funding of those is subject to scrutiny of government, makes it challenging for litigation funders to develop their business.

In other countries TPLF is rather uncommon, as in **Belgium**, where law strikes a balance between facilitating access to justice and ensuring adequate safeguards against abusive litigation. In **Switzerland**, TPLF is not yet a phenomenon probably due to the fact that collective redress is not currently available in the country and the debate around it seems quite neutral. In the case of **Ireland**, it is important to note that TPLF is currently prohibited under the torts of maintenance and champerty.

In the **UK,** TPLF has been assessed positively and the growing use of opt-out mechanisms has increased the possibility of TPLF. **In Austria**, TPLF has become an established way of financing disputes and plays a particularly significant role in the so called “Austrian-style” class action, which takes the form of an assignment model for group actions.

TPLF is also on the rise in some other jurisdictions such as in **Germany**, **Denmark** and **The Netherlands.** For instance, in Germany and Denmark, TPLF is mainly used in bankruptcy cases, cases relating to cartel damages and in large damages suits. It is important to note that the Danish legal community is split as to whether the introduction of TPLF is beneficial or not. In this regard, the business sector responded negatively to the notion of TPLF. In **The Netherlands**, there has been an increase in the use of third-party funding in Dutch collective actions and the number of third-party funders active on the Dutch market is growing. However, litigation finance in the Netherlands is not as common as it is in certain other jurisdictions, such as in **Australia** as its country of origin where it developed as a logical reaction to the prohibition of contingency fees, the **United Kingdom**, when policy makers intended to shift the financial burden of ensuring

access to justice from the state to the market, and the United States where market forces triggered this form as litigation finance as an "alternative" to the "traditional" form of funding by lawyers themselves through contingency fees. That being said, class actions seem to be frequently also used for the benefit of commercial interest, even though, courts try to limit this.

III. Main actions in court and out-of-court

Court cases

Overall, the number of larger mass claims cases proceeding in court in 2020 remains a manageable number throughout the EU. However, significant differences remain between the countries analysed.

For instance, in **Belgium**, since actions for collective redress were permitted under Belgian law in 2014, only nine such actions have been initiated, which can reflect the legislator's intent to make such actions exceptional. Similarly, in **France**, since group actions were allowed first in 2014, 21 such group actions have been filed. Collective proceedings are not frequent in **Portugal** nor in **Greece**.

As regards court judgments handed down in Q1/Q2 2020, **The Netherlands** appears to be the most active country. In total, 10 class action verdicts were handed down in Q1/Q2 pursued via claim vehicles. In **Germany**, as at the end of Q2 2020, there were eight registered class actions, two of them registered in Q1 2020.

In **Austria**, there have been some interesting developments in the *Volkswagen* matter; in August 2020, the Austrian Supreme Court ruled that a car purchaser may sue the car manufacturer in the Member State where the car was purchased. On another topic in September 2020, the Austrian consumer protection association filed a lawsuit on behalf of 1,000 claimants in the context of COVID-19 spreading in the ski resort of Ischgl last year.

In the **UK**, several court judgments in relation to GDPR or competition, among others, have been issued. In December 2020, as referred to earlier in this report, the UK Supreme Court allowed a case to go ahead against Mastercard for allegedly causing retailers to overcharge all resident UK adult consumers for 15 years by setting anti-competitive fees. In doing so, the Court cleared the way for US-style class action suits to proceed in Britain and may serve the basis for several other pending cases to come to court. This is Britain's biggest ever damages action.

Out-of-court cases

Out-of-court solved disputes exist in almost all countries analysed, except for Portugal and Switzerland. In **Poland**, there have been several well-known cases but no significant decisions in 2020. In **Denmark**, a group of investors withdrew their collective action suit to settle the dispute out of court. Furthermore, in **Belgium**, amicable settlements have been reached in nearly 50% of the cases of collective actions. In **Germany**, a settlement

was reached in February 2020 between the Federation of German Consumer Organisations and Volkswagen AG. Interestingly, in **The Netherlands,** there have been settlement agreements under the Act on Collective Settlement of Mass Damage. However, this is an in-court approval of the settlement and so far, no information has been provided regarding out-of-court settlements not under the Act.

In **Austria**, disputes resolved out-of-court are generally not published. However, in certain commercial areas, alternative dispute mechanisms have been put in place serving the purpose of an out-of-court settlement.

Finally, in **Ireland** there was the case of the Central Bank of Ireland (CBI) Tracker Mortgage Examination (the Examination). The Examination is the largest and most complex consumer protection review ever undertaken by the CBI. It arose from a number of tracker mortgage issues having been identified and in turn pursued with lenders by the CBI. By the end of 2019, over 40,000 customers were identified as affected by the tracker mortgage "scandal" and €683m were paid by lenders in redress and compensation. CBI also conducted investigations against various lenders that have ended up in significant fines.

IV. Domestic legislative situation before implementation of the Directive

This chapter aims at providing further insights on the legal status of the 13 countries by comparing the current national status on different levels of safeguards. These safeguards cover (i) the criteria for establishing Qualified Entities (QE), (ii) the admission of safeguards, and (iii) the procedural safeguards.

Designation safeguards - Criteria for Qualified Entities (QEs)

The information collected from legal experts allowed a gap analysis between the requirements in the Directive on Representative Actions (see the table below) and the current status in the different screened countries. The table provides an overview between existing (green) or missing (red) national criteria for domestic actions and future criteria for cross-border actions under the EU Directive.

Monitoring Collective Redress in Europe

Domestic legislative situation

QEs

Criteria for Qualified Entities (QEs) according to ‚Directive on Representative Action' for cross-border representative action vs. national criteria of QEs

Dir. on Repr. Actions Article 4 (3) a) – f)		AT	BE	DE	DK	FR	GR	IE	NL	PL	ES	PT	CH	UK
a)	*>12 months activity prior to designation*	no	yes	yes	no	yes	no	no	no	no	no	no except*	n/a	Uncertainties of BREXIT. Under CPO regime: Competition Appeal Tribunal considers suitability
b)	*Status demonstrates consumer protection interest*	no	yes	yes	no	no	yes	no	yes	no	yes	yes	n/a	
c)	*Non-profit character*	no	yes	yes	no	yes	yes	no	yes	no	yes	yes	n/a	
d)	*Not subject to insolvency*	no	yes	yes	no	no	yes	no	no	no	yes	no	n/a	
e1)	*Not influenced by others with economic interest*	no	yes	yes	no	yes	yes	no	no	no	yes	no	n/a	
e2)	*Procedures preventing influence and conflict*	no	no	yes	no	yes	no	no	yes	no	yes	no	n/a	
f)	*Public info about compliance regarding the criteria (a-e)*	no	no	yes	no	no	no	no	yes	no	yes	no	n/a	
	Adhoc entities possible for domestic representative actions	no	no	no	yes	no	no	no	yes	no	no	no	no	

* Portugal: a) investor protection associations active for more than one year, enjoy right of popular actions

Table 1

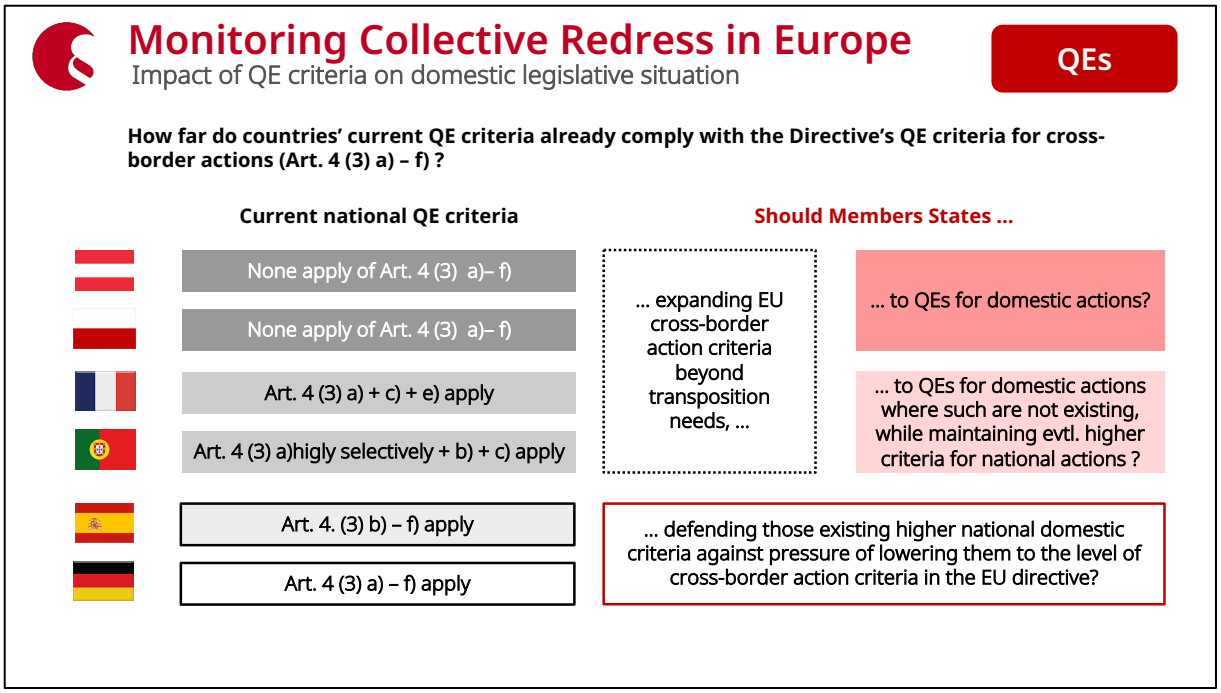
Overall, 3 different categories of countries can be found:

a) Countries where currently no national QE criteria are comparable with EU Directive criteria for cross-border actions: **Austria**, **Denmark**, **Ireland** and **Poland.**

b) Countries where currently the national QE criteria for domestic actions are partially already meeting the level of the EU Directive criteria for cross-border actions: **Germany** and **Spain** are already very close to or are equalling the EU criteria. The rule of 12-months-activity-prior-to-designation is the only one missing in Spain. Furthermore, in Germany, the criteria for domestic actions even go far beyond the cross-border action criteria of the EU Directive.

c) Countries where national regulation is already taking up fully (or nearly completely) the EU Directive criteria. This includes: **Belgium**, **France**, **The Netherlands**, **Greece** and **Portugal**, which are partly covering the criteria in the EU Directive for domestic actions.

All in all, the current status of QE criteria for domestic actions will remain highly fragmented should Members States decide not to voluntarily raise the bar during the period of national transposition of the EU Directive until the end of 2022/first half of 2023.



Overview 1

Interestingly, in **Denmark** and **The Netherlands**, ad-hoc entities may be utilised for domestic representative actions. While in **Denmark** collective redress procedures are strongly influenced by ombuds solutions combined with regulatory redress, in the Netherlands the new Dutch Act on the Collective Damages Claims (WAMCA), entered into force on 1 January 2020 and opened the door for claiming damages in mass litigation. However, other mass litigation was already possible long before. This Act provides an opt-out mechanism that facilitates the implementation of collective settlements through a binding declaration by the Amsterdam Court of Appeal which is somewhat similar to the US settlement mechanisms.

Admission safeguards

This encompasses the assessment of commonality criteria, the rules of standing, the admission via court, the minimum number of claimants needed, and the prohibition of disclosure of documents. This last one is a particularly important pre-trial factor in the US-style class actions.

Although commonality criteria are available in all EU Members States, there is no clear common definition. For instance, closely related rules of standing are missing in **Austria** and **France**. In addition, **Poland** and **Spain** do not have specific admission procedures involving courts and while many of the countries do not have any threshold regarding the minimum number of claimants, the upfront disclosure of documents is explicitly possible in only three countries: **Denmark**, **Spain** and **UK** (excepting Scotland).

The key takeaways from this analysis are, on the one hand, that **some countries provide important loopholes** and, on the other, that there is an **important fragmentation of conditions due to the lack of joint definitions or scope**. Moreover, some countries have lower admission safeguard levels, like Austria or Spain (see table 2).

Procedural safeguards

Overall, the analysis (see Table 2, next page) showed a broad positive level of "Loser Pays Principle" rules, with the exception of Spain. In addition, the prohibition or limitation of punitive damages is widely implemented in the national jurisdictions.

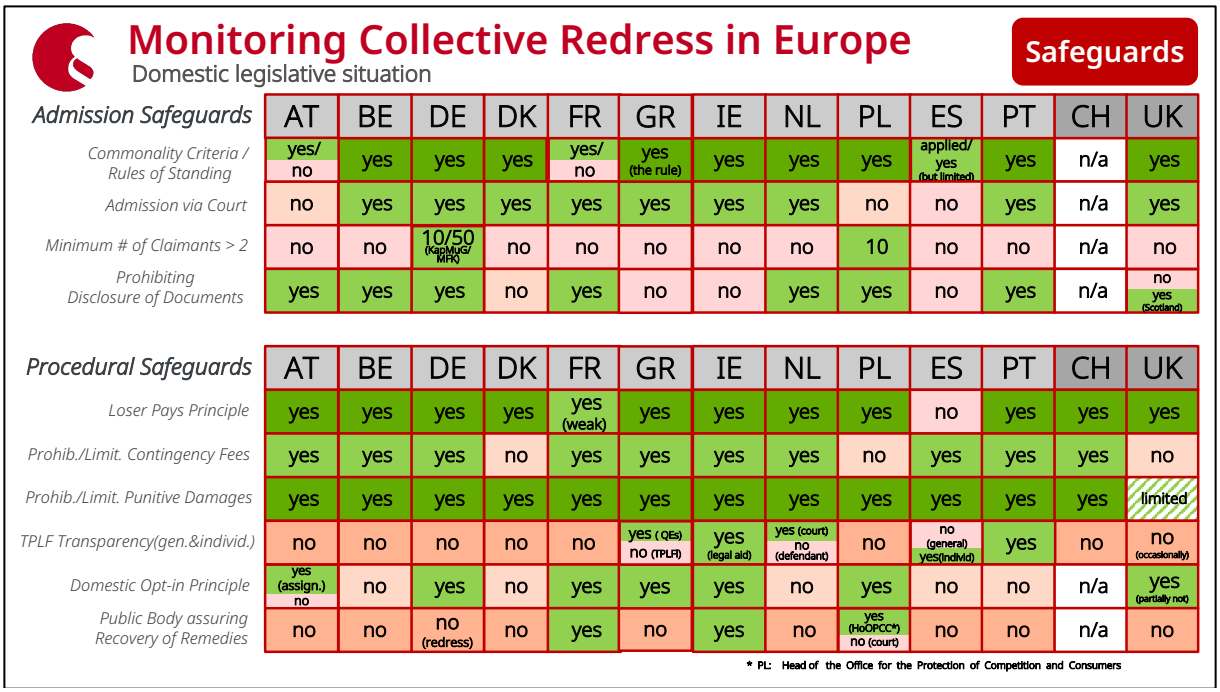
It is important to underline that regulation on TPLF, especially with a focus on transparency, is missing in most of the EU Member States, with the exception of Portugal. However, this problem is only partially addressed in the Directive. On the contrary, the prohibition of contingency fees is broadly established in national Member State legislations. Nevertheless, this safeguard is missing in three countries, namely **Denmark**, **Poland** and the **UK**.

Furthermore, a key barrier to the potential spreading of class actions domestically is the opt-in principle, although only 6 countries have domestic regulations in this regard.

An additional structural barrier against mass actions economically driven by third parties can consist in public bodies assuring the recovery of remedies such that private vehicles for collective redress are unnecessary. Otherwise, assignment models[1] are created by the Legal Tech industry in order to take care of the practical enforcement of court decisions. This takes money away from the beneficiaries. Positive examples for public solutions of the distribution task are, according to our preliminary findings, **Ireland** with its Competition and Consumer Protection Commission (CCPC)[2], **France** by individual enforceable title issued by the court for the benefit of individual consumers known to the court[3] and **Poland** for injunction proceedings with the role of its Head of the Office for the Protection of Competition and Consumers (HoOPCC). The rest of the countries analysed presented absence of such solution or weaknesses with regards to this aspect.

None of the countries seem to have a particularly low level of procedural safeguards, however, the patchwork between countries appears again. In particular, three safeguards, (i) domestic opt-in principle, (ii) TPLF transparency and (iii) public bodies assuring recovery of remedies, seem to be missing across a broad range of countries.

[1] A commercial provider offers a platform (e.g. Dutch Stichting) which aggregates single individual claims by assignments (merely for collection or of the full right) and will file the suit for the claim or only collect or pay out the share of the individual consumer after checking his entitlement under the terms of the final judgment or settlement.
[2] Under Section 81 of the Consumer Protection Act 2007, if a trader is convicted of an offence under the Act, the CCPC may "on behalf of an aggrieved consumer who consents to the application" apply to the court for a "compensation order" requiring the trader to pay an amount of money the court considers appropriate by way of compensation in respect of any loss or damage that a consumer faces resulting from that offense (https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/02/The-Consumer-Protection-Act-2007.pdf).
[3] http://www.justice.gouv.fr/le-ministere-de-la-justice-10017/action-de-groupe-27534.html , Question 5.



Monitoring Collective Redress in Europe

Domestic legislative situation

Safeguards

Admission Safeguards	AT	BE	DE	DK	FR	GR	IE	NL	PL	ES	PT	CH	UK
Commonality Criteria / Rules of Standing	yes/ no	yes	yes	yes	yes/ no	yes (the rule)	yes	yes	yes	applied/ yes (but limited)	yes	n/a	yes
Admission via Court	no	yes	yes	yes	yes	yes	yes	yes	no	no	yes	n/a	yes
Minimum # of Claimants > 2	no	no	10/50 (KapMuG/ MFK)	no	no	no	no	no	10	no	no	n/a	no
Prohibiting Disclosure of Documents	yes	yes	yes	no	yes	no	no	yes	yes	no	yes	n/a	no / yes (Scotland)

Procedural Safeguards	AT	BE	DE	DK	FR	GR	IE	NL	PL	ES	PT	CH	UK
Loser Pays Principle	yes	yes	yes	yes	yes (weak)	yes	yes	yes	yes	no	yes	yes	yes
Prohib./Limit. Contingency Fees	yes	yes	yes	no	yes	yes	yes	yes	no	yes	yes	yes	no
Prohib./Limit. Punitive Damages	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	limited
TPLF Transparency(gen.&individ.)	no	no	no	no	no	yes (QEs) no (TPLF)	yes (legal aid)	yes (court) no (defendant)	no	no (general) yes(Individ)	yes	no	no (occasionally)
Domestic Opt-in Principle	yes (assign.) no	no	yes	no	yes	yes	yes	no	yes	no	no	n/a	yes (partially not)
Public Body assuring Recovery of Remedies	no	no	no (redress)	no	yes	no	yes	no	yes (HoOPCC*) no (court)	no	no	n/a	no

* PL: Head of the Office for the Protection of Competition and Consumers

Table 2

V. National legislative developments

The findings show that in the majority of the countries, existing collective action legislations are not expected to change. As a result of the Dieselgate scandal, the **German** government felt compelled to introduce the so-called 'Musterfeststellungsklage' (model declaratory proceedings), which allows public interest groups to bundle claims and take them to court. As this system was only quite recently introduced, it will take some time before its effectiveness can be properly assessed. Moreover, there are no other legislative initiatives at national level that would spur change to the legal mechanism in place. A similar assessment can be made for **Belgium**, **Poland** and **Portugal**, where there are no known proposals for legislative amendments to the existing collective action legislation to warrant any changes.

In **The Netherlands**, the Wet afwikkeling massaschade in collectieve actie ("WAMCA" Act) entered into force on 1 January 2020, and so the new Directive is not expected to trigger any major changes in Dutch law. However, it could potentially make the Netherlands more attractive to aggrieved consumers. The Netherlands was already a popular country for this kind of litigation, and that popularity is likely only to increase as commercial operators identify an investment opportunity in the financing of claims.

The adoption of the new Directive will have very little impact on **Denmark** since its provisions are very similar to the current Danish legislation on collective redress (the current legislation already allows the Danish Consumer Ombudsman to act as a representative on behalf of a group of consumers). However, it is not impossible that the adoption of the Directive might increase the general public awareness of the possibility of collective actions, thereby increasing the number of such lawsuits in general. The government is also concerned that the law will drag a large number of companies into a number of lawsuits.

In **Switzerland**, the law for collective redress is expected to change but only in the next few years. Changes may be expected in the **United Kingdom** however, subject to Brexit discussions. In **Austria**, given that there has not been an agreement on an Austrian domestic class action regime, the Austrian legislator will have to implement the EU directive. However, it is not expected that the future class action rules will replace alternative existing dispute settlement methods, although it remains to be seen whether the implementation of the Directive will bring forward a new legal instrument.

Meanwhile, in **Spain**, several proposals have been made by relevant members of the judiciary to try to expedite civil proceedings in light of the increasing multi-case litigation that is expected to bloom as a consequence of COVID-19. The approval of the Directive on Representative Actions is likely to further fuel those initiatives. Additionally, those proposals include the need to provide incentives for ADR and regulatory redress mechanisms. Furthermore, **Greece** may experience some changes to the current collective action legislation following the transposition of the Directive, especially in relation to certain provisions.

In **France**, in June 2020 a report on class actions was submitted to the French National Assembly by a Working Group, recommending changes to the current collective action legislation. It is likely that these recommendations will result in the drafting of a national law in the future.

Similarly, in **Ireland**, changes in the current collective action legislation are expected. In this regard, demand for a class action procedure is very strong in the NGO community ("public interest law sector").

VI. Conclusion

The preparation of the monitoring report has provided interesting **insights on the upcoming transposition of the Directive, where the current turbulent political landscape is likely to affect the transposition of the Directive**. It cannot be expected that the transposition process will be concluded much before the end of the transposition period. Of course, we need to keep in mind that different countries move in different speeds. Much depends on additional factors like national elections, already existing regulatory initiatives and in-place collective redress measures.

Importantly, as regards the **TPLF, even though the monitoring has shown that in most of the EU countries TPLF is not widely used, it is important to keep a close eye on countries where TPLF is on the rise,** such as in **Germany**, **The Netherlands** and the **United Kingdom**. In this regard, it is also important to bear in mind, that despite Brexit, developments in UK's collective redress will continue to be of interest to EU judges and courts, particularly in those jurisdictions likely to be attractive to litigation funders. An interesting playing field may also become **Austria** as TPLF could foster the "Austrian-style" class action in its form as assignment model for group actions.