

Basic information	
1996/0025(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Protection of consumers: injunctions for the protection of consumers' interests Repealed by 2003/0099(COD) Amended by 1998/0245(COD) Amended by 2003/0134(COD) Subject 4.60.06 Consumers' economic and legal interests	

Key players			
European Parliament	Committee responsible		Rapporteur
	JURI Legal Affairs, Citizens' Rights		VERDE I ALDEA Josep (PSE)
	Former committee responsible		Former rapporteur
	JURI Legal Affairs, Citizens' Rights		VERDE I ALDEA Josep (PSE)
	Former committee for opinion		Former rapporteur for opinion
	ENVI Environment, Public Health and Consumer Protection		KUHN Annemarie (PSE)
Council of the European Union	Council configuration	Meetings	Date
	Consumers	1997	1997-04-10
	Consumers	2084	1998-04-23
	Consumers	1917	1996-04-23
	Consumers	1969	1996-11-25
	Fisheries	2037	1997-10-30

Key events			
Date	Event	Reference	Summary

30/09/1994	Additional information		Summary
24/01/1996	Legislative proposal published	COM(1995)0712	Summary
28/02/1996	Committee referral announced in Parliament, 1st reading		
23/04/1996	Debate in Council		
29/10/1996	Vote in committee, 1st reading		Summary
29/10/1996	Committee report tabled for plenary, 1st reading	A4-0354/1996	
13/11/1996	Debate in Parliament		Summary
25/11/1996	Debate in Council		
23/12/1996	Modified legislative proposal published	COM(1996)0725	Summary
30/10/1997	Council position published	07497/1/1997	Summary
20/11/1997	Committee referral announced in Parliament, 2nd reading		
25/02/1998	Vote in committee, 2nd reading		Summary
25/02/1998	Committee recommendation tabled for plenary, 2nd reading	A4-0062/1998	
11/03/1998	Debate in Parliament		Summary
23/04/1998	Act approved by Council, 2nd reading		
19/05/1998	Final act signed		
19/05/1998	End of procedure in Parliament		
11/06/1998	Final act published in Official Journal		

Technical information	
Procedure reference	1996/0025(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealed by 2003/0099(COD) Amended by 1998/0245(COD) Amended by 2003/0134(COD)
Legal basis	EC before Amsterdam E 100A
Stage reached in procedure	Procedure completed
Committee dossier	JURI/4/09466

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0354/1996 OJ C 362 02.12.1996, p. 0005	29/10/1996	
		T4-0596/1996		

Text adopted by Parliament, 1st reading/single reading		OJ C 362 02.12.1996, p. 0225-0236	14/11/1996	Summary
Committee recommendation tabled for plenary, 2nd reading		A4-0062/1998 OJ C 104 06.04.1998, p. 0006	25/02/1998	
Text adopted by Parliament, 2nd reading		T4-0144/1998 OJ C 104 06.04.1998, p. 0196-0205	12/03/1998	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	07497/1/1997 OJ C 389 22.12.1997, p. 0051	30/10/1997	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1995)0712 OJ C 107 13.04.1996, p. 0003	24/01/1996	Summary
Modified legislative proposal	COM(1996)0725 OJ C 080 13.03.1997, p. 0010	23/12/1996	Summary
Document attached to the procedure	SEC(1997)0935 	13/05/1997	
Commission communication on Council's position	SEC(1997)2077 	12/11/1997	Summary
Follow-up document	COM(2008)0756 	18/11/2008	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1095/1996 OJ C 030 30.01.1997, p. 0112	25/09/1996	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 1998/0027 OJ L 166 11.06.1998, p. 0051	Summary
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Protection of consumers: injunctions for the protection of consumers' interests

1996/0025(COD) - 12/11/1997 - Commission communication on Council's position

The Commission notes that the common position differs significantly from its own proposal, particularly as regards the interests of companies, which the Council text does not mention. However, in order to facilitate a compromise, the Commission is able to accept the common position to the extent that the consideration of these interests (which often coincide with consumers' interests) is not specifically excluded.

Protection of consumers: injunctions for the protection of consumers' interests

1996/0025(COD) - 14/11/1996 - Text adopted by Parliament, 1st reading/single reading

Parliament adopted the report by Mr Josep VERDE I ALDEA (PSE, E) on injunctions for the protection of consumers' interests. Parliament called for a harmonization (whereas the Commission proposed a mere coordination) of rules with regard to protection of the collective interests of consumers, of persons exercising a commercial, industrial or craft activity and those of the public at large, against certain unlawful practices. Moreover, Member States should designate at national level the bodies and/or organizations qualified for the purposes of the Directive, including Europe-wide bodies or organizations established within their territory. Finally, where the Member States have established that there should be prior intervention by a national qualified entity with a view to initiating action, a deadline of not more than 20 working days should be set, to start upon presentation of the application for intervention to the competent body. After which, should the latter body fail to respond, the applicant would be entitled to bring an action before the competent authority without further notice.

Protection of consumers: injunctions for the protection of consumers' interests

1996/0025(COD) - 19/05/1998 - Final act

OBJECTIVE: to approximate the laws, regulations and administrative provisions of the Member States on injunctions for the protection of consumers' interests. COMMUNITY MEASURE: Directive 98/27/EC of the European Parliament and of the Council on injunctions for the protection of consumers' interests. SUBSTANCE: the Directive is intended to prevent intra-Community infringements. To this end, it applies the principle of mutual recognition to entities qualified to bring an action, their qualification being defined in accordance with national criteria. On the basis of this principle, a qualified entity, which may be an independent public body and/or a consumers' organisation in a Member State where interests are affected by an infringement, may bring an action before the court or competent authority of another Member State where the infringement originates. Every three years, and for the first time not later than five years after the entry into force of the Directive, the Commission is to report to the European Parliament and the Council on its implementation. ENTRY INTO FORCE: 01/07/1998 DEADLINE FOR TRANSPOSITION: 01/01/2001

Protection of consumers: injunctions for the protection of consumers' interests

1996/0025(COD) - 12/03/1998 - Text adopted by Parliament, 2nd reading

In adopting the recommendation for second reading by Mr Josep VERDE I ALDEA (PSE, Esp), the European Parliament approved the common position unamended. The Council had accepted many of the amendments adopted by the European Parliament at first reading.

Protection of consumers: injunctions for the protection of consumers' interests

1996/0025(COD) - 24/01/1996 - Legislative proposal

OBJECTIVE: to facilitate consumers' access to justice via their representatives by coordinating national provisions on actions for injunction of practices which are contrary to Community consumer law. SUBSTANCE: the proposed action is based on the existence, at national level, of entities qualified to protect the interests of consumers which have occasion to bring injunction proceedings before the national courts of the Member States on account of practices which violate Community law. The proposal for a Directive lays down minimum conditions for mutual recognition of these qualified entities to enable them to act in cross-border situations. Where an unlawful practice has effects in Member State A but originates in Member State B, the qualified entity in country A will be able either to authorize the qualified entity in country B to institute proceedings before the court or competent authority of that country, or else itself to take action before that court or authority. The scope of the Directive is limited to practices coming within the remit of national laws that have been harmonized under other Community directives, namely those concerning misleading advertising, consumer credit, unfair terms in contracts, door-to-door selling, package travel and timeshares. Granting the power of action to the qualified entities of the Member States, establishing criteria for the entities' representativeness and laying down procedural details will in every case be matters for the national authorities.

Protection of consumers: injunctions for the protection of consumers' interests

1996/0025(COD) - 23/12/1996 - Modified legislative proposal

The modified proposal for a Directive on injunctions for protection of consumers' interests accepts in full or in part 17 of the 20 amendments adopted by Parliament at first reading. In the light of the EP amendments, the main changes made are as follows: - since the law applying to the substance of a dispute comprises provisions transposing one of the Directives listed in the Annex, it should be applied in full; - setting of a time limit of three weeks after which, should the national qualified entity having territorial jurisdiction fail to respond, the applicant should be entitled to bring an action before the competent authority without further notice; - the purpose of the Directive is to approximate the rules designed to protect the collective interests of consumers and persons exercising a commercial, industrial or craft activity, and the interests of the public at large, against infringements harmful to consumers' interests; - with regard to actions for an injunction, the nature of the payment and the beneficiary will be determined by the national law applicable; - the distinction between the concept of being qualified to act and having an interest in doing so is clarified. The Directive introduces mutual recognition of the qualification for action ('qualified entities') but the interest in bringing an action is governed by national law and must be assessed separately in each case by the judge before whom the action is brought; - the Member States will apply the criteria laid down by their national law to any organization existing in their territories, irrespective of the national, transnational or European nature of such organizations/federations; - the rules governing prior notification must enable the action to be brought as quickly as possible, since it is done under summary procedure.

Protection of consumers: injunctions for the protection of consumers' interests

1996/0025(COD) - 30/10/1997 - Council position

The common position largely takes over the Commission's amended proposal and hence Parliament's amendments accepted by the Commission. The most important point of divergence between the amended proposal and the common position concerns the scope of the proposed Directive, to the extent that the reference to companies' interests has been deleted; instead the common position focuses exclusively on protecting the collective interests of consumers. The Council has made provision for the collective interests of persons exercising a commercial, industrial, craft or professional activity to be re-examined no later than five years after the entry into force of the Directive. A further difference which should be mentioned is that the common position has not specifically taken into account the possibility for European organizations and/or federations to act as qualified entities. The common position also stipulates the scope of intra-Community infringements: a simplification has been introduced by deleting the initially proposed text concerning the document certifying the right of a qualified entity to bring proceedings before competent courts or authorities. According to the common position, it is sufficient for the Commission, once the Member States have informed it of the name and purpose of their national qualified entities, to draw up a list of such entities, which will be published in the Official Journal. The courts and administrative bodies must accept this list as proof of the legal capacity of the qualified entity without prejudice to their right to examine whether the purpose of the qualified entity justifies its taking action in a specific case. Another point to note is that the question of the law applicable is covered with reference to private international law. The applicable law should therefore normally be either the law of the Member State where the infringement originated or the law of the Member State where it has its effects. Finally, the Council would like the Directive to be implemented within a period of 30 months.

Protection of consumers: injunctions for the protection of consumers' interests

1996/0025(COD) - 18/11/2008 - Follow-up document

The Commission reports on the application of Directive 98/27/EC on injunctions for the protection of consumers' interests, as required by Article 6(1) of the Directive. It notes that a major benefit of the Directive has been to introduce in each of the Member States a procedure for bringing injunctions to protect the collective interests of consumers. This procedure is being used by the consumer associations with some success for national infringements.

However, the use made of the Directive to counter cross border infringements has been disappointing. According to the Commission's information, only the UK's Office of Fair Trading (OFT, public authority in charge of consumer protection) has used the mechanism.

The main reasons mentioned by both the Member States and the interested parties to explain the small number of injunctions sought in another Member State are the cost of bringing an action, the complexity and length of the procedure and the limited scope of the injunction procedure. The main obstacle is the lack of resources in the light of the financial risks borne by any eligible qualified entity, but also in the light of the expertise required to deal with the different procedures in the various Member States.

Cost: consumer associations mentioned the administrative costs of preparing the file, court fees and lawyers' fees as posing particular difficulties. If the action is brought in another Member State, it will also entail translation costs, and there is added uncertainty about legal fees in another Member State (for example, citation fees or fees associated with notification of the ruling). The associations also mentioned the risk of duplicating lawyers' and experts' fees. The financial risk is all the greater when the action is brought in a Member State where the losing party has to bear all the costs of the procedure and, in particular, pay the costs of the successful party (in particular, some or all of their legal costs). This principle exists in most of the Member States.

Complexity and length of procedures: these are often invoked as obstacles to cross-border actions. The complexity is the result mainly of different injunction procedures in other Member States, subject to national judicial or administrative procedures. Existing uncertainties as to which law is applicable reinforce this perceived complexity. Whilst the Directive harmonises certain aspects of bringing an injunction in the Member States, it leaves them a certain amount of latitude. It allows them to choose a judicial or an administrative injunction procedure and whether or not to impose a prior consultation procedure and establish the associated arrangements. The Directive also allows Member States to adopt or maintain provisions giving qualified entities or any other party the entitlement to take more wide-ranging action. An analysis of the transposition of the Directive demonstrated the wide range of choices made by the Member States. Moreover, by not regulating many aspects of the injunction procedure, such as prescription periods or procedural deadlines and fees, the Directive allows the details to be fleshed out in national civil, commercial or administrative procedures, which can vary between States.

Limited impact of rulings: the associations and Member States consulted emphasised the sometimes limited impact of such injunctions. In most Member States, a ruling on an application for an injunction has a mitigated impact. It is mandatory only with respect to the case and the parties in question, i.e. the qualified entity which brought the action and the company which is the subject of the injunction. In practice, this means that if a company commits an infringement identical to that for which another company has already been convicted, a new injunction must be sought to stop the new infringement. In the same way, the annulment of an unfair term in a contract proposed by a company does not prevent the same company from continuing to use this unfair term in a similar contract.

The CPC Regulation: Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (CPC Regulation) establishes a network of public authorities responsible for protecting consumers and harmonises, to a certain extent, the investigative and enforcement powers of these authorities. This is a partial response to the difficulties raised by the implementation of the Directive, and its application should considerably improve the combating of intra-Community infringements. The adoption of the Rome II Regulation should also have an impact. The Commission takes the view that it would be preferable to await more detailed feedback on the application of the CPC and Rome II Regulations before drawing conclusions as to how to proceed with the Directive.

Conclusion: consequently, the Commission takes the view that it is not the time to propose any amendments to, or the repeal of, the Directive but that, on the contrary, it should continue to examine the application of the Directive. In particular, it takes the view that there is no reason to extend its scope to include the collective interests of businesses, or to generalise the prior consultation requirement.