Basic information

2003/0099(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Injunctions for the protection of consumers' interests. Codification Repealing Directive 98/27/EC 1996/0025(COD) Repealed by 2018/0089(COD) Amended by 2011/0373(COD) Amended by 2011/0374(COD) Amended by 2016/0152(COD) **Subject** 2.80 Cooperation between administrations 4.60.06 Consumers' economic and legal interests 7.40.02 Judicial cooperation in civil and commercial matters 8.50.01 Implementation of EU law	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	WALLIS Diana (ALDE)	12/06/2006

Former committee responsible	Former rapporteur	Appointed
JURI Legal Affairs		
JURI Legal Affairs and Internal Market	GARGANI Giuseppe (PPE-DE)	07/07/2003

Former committee for opinion	Former rapporteur for opinion	Appointed
ENVI Environment, Public Health, Consumer Policy	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Agriculture and Fisheries	2934	2009-03-23

European Commission

Commission DG	Commissioner
Legal Service	BARROSO José Manuel

Key events

Date	Event	Reference	Summary
12/05/2003	Initial legislative proposal published	COM(2003)0241	Summary
15/05/2003	Committee referral announced in Parliament, 1st reading		
07/10/2003	Vote in committee, 1st reading		Summary
07/10/2003	Committee report tabled for plenary, 1st reading	A5-0337/2003	
21/10/2003	Decision by Parliament, 1st reading	T5-0435/2003	Summary
16/11/2006	Legislative proposal published	COM(2006)0692	Summary
16/11/2006	Formal reconsultation of Parliament		
30/01/2007	Vote in committee, 1st reading		Summary
02/03/2007	Committee report tabled for plenary, 1st reading	A6-0046/2007	
19/06/2007	Decision by Parliament, 1st reading	T6-0241/2007	Summary
19/06/2007	Results of vote in Parliament		
23/03/2009	Act adopted by Council after Parliament's 1st reading		
22/04/2009	End of procedure in Parliament		
23/04/2009	Final act signed		
01/05/2009	Final act published in Official Journal		

Technical information

Procedure reference	2003/0099(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Codification
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 98/27/EC 1996/0025(COD) Repealed by 2018/0089(COD) Amended by 2011/0373(COD) Amended by 2011/0374(COD) Amended by 2016/0152(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/43058 JURI/6/43019 JURI/5/19583

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0337/2003	07/10/2003	
Text adopted by Parliament, 1st reading/single reading		T5-0435/2003 OJ C 082 01.04.2004, p. 0024-0069 E	21/10/2003	Summary
Committee report tabled for plenary, 1st reading/single reading		A6-0046/2007	02/03/2007	
Text adopted by Parliament, 1st reading/single reading		T6-0241/2007	19/06/2007	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	03726/2008/LEX	23/04/2009	

European Commission

Document type	Reference	Date	Summary
Initial legislative proposal	COM(2003)0241	12/05/2003	Summary
Legislative proposal	COM(2006)0692	16/11/2006	Summary
Follow-up document	COM(2012)0635	06/11/2012	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1162/2003 OJ C 010 14.01.2004, p. 0007	24/09/2003	
EESC	Economic and Social Committee: opinion, report	CES0415/2007	14/03/2007	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2009/0022
OJ L 110 01.05.2009, p. 0030 Summary

Injunctions for the protection of consumers' interests. Codification

2003/0099(COD) - 06/11/2012 - Follow-up document

The European Commission has presented a report on the application of Directive 2009/22/EC of the European Parliament and the Council on injunctions for the protection of consumers' interest.

To recap, Directive 98/27/EC of 19 May 1998 on injunctions for the protection of consumers' interests introduced a Court or administrative procedure enabling consumer organisations and/or public authorities to seek an injunction to stop a trader's practice that infringes a number of EU rules on consumer protection in all Member States. Directive 98/27/EC has been amended several times. In the interest of clarity, this Directive has been codified by Directive 2009/22/EC, which is currently in force.

A first report on the application of the Directive was adopted in November 2008. This second Commission report is based on the responses to questionnaires sent to public authorities and consumer associations.

1) Injunctions:

The report notes that it is **difficult to assess the number of injunctions** and that any estimate needs to be treated with care. Responses to the questionnaire sent to interested parties show that in total **5 632 actions for injunction were reported, most of which were national**. The Member States with the **highest number of actions for injunction reported**, as from 2008 are Germany (3,000 actions), Latvia: (956 cases), the United Kingdom (938 actions), Austria (500 actions) and Malta (267 cases).

The **economic sectors** which were most often mentioned by respondents as being most affected by injunctions are the following: (i) telecommunications, (ii) banking and investments, and (iii) tourism and package travel. Other sectors mentioned by several respondents are distance selling, insurance, energy, non-food consumer goods and passenger transport.

On the basis of the responses to the questionnaire, the following illegal practices that harm consumers' collective interests have resulted most frequently in the exercise of injunctions, in order of importance:

- unfair contract terms (the most frequent reason given);
- unfair commercial practices and misleading advertising, in equal measure.

2) A useful measure in spite of its limitations: the report underlines that despite its limitations, injunctive actions constitute a useful tool for the protection of the collective interests of consumers. Qualified entities are gradually becoming aware of the possibilities offered to them by the Directive and gaining experience with its use. The **main positive findings** concerning the Directive are the following:

- injunctions are a successful tool for policing markets, especially to ensure fair contract terms;
- injunctions work particularly well with market players who respect to a certain extent the law. However, against rough traders and criminal actors, injunctive actions are not always an appropriate mechanism to put a stop to illicit practices;
- the Directive has to a certain extent enhanced compliance with consumer protection laws among economic operators in certain sectors of the economy, although there are not enough data available to estimate this reduction in percentage terms;
- the Directive has had direct qualitative benefits for consumers, although it was not necessarily possible to express these benefits in monetary terms.

- the injunction procedure introduced by the Directive does not enable consumers who have suffered harm because of an illicit practice to obtain compensation. However, the possibilities of redress for consumers affected by a trader's practice that has been declared illegal following an injunction varies from one Member State to another.

However, the report notes however that there are considerable differences between the Member States in respect of both the levels of use and the effectiveness of this instrument. Moreover, even in those countries where the effectiveness of injunctions is recognised or where they are frequently used, their potential is not fully exploited due to the following reasons: the **high costs** linked to this type of action, the **length and complexity** of the procedures, the relatively **limited effects** of the rulings on injunctions and the difficulty of enforcing them. These difficulties are even more present in injunctions **with a cross-border dimension.**

Next steps: despite its limitations, injunctive actions are regarded by the overwhelming majority of stakeholders and experts as a useful tool with considerable potential if the shortcomings identified are addressed.

In its resolution of 2 February 2012 on "Towards a Coherent European Approach to Collective Redress", the European Parliament takes the view that the mechanisms introduced under Directive 2009/22/EC on injunctions for the protection of consumer interests can be significantly improved so as to foster cooperation and injunctive relief in cross-border situations.

The report lists a **series of measures proposed by stakeholders** to improve the effectiveness of injunctions:

- **Non legislative measures:** awareness-raising campaigns and training for qualified entities in the use of injunctions; the introduction of mechanisms (such as a website) to give publicity to injunction cases across Europe.
- **Possible changes in the legal framework:** the Directive leaves considerable latitude for Member States to design the characteristics of injunctive actions, including the procedural rules, as well as their scope and effects. Several respondents advocate a greater degree of harmonization (with regard to time limits for introducing the action, the deadline for rendering a court decision and costs) in the injunction procedures of the various Member States, at least for cross-border cases.

It has also been suggested to introduce some of the **measures which already exist in some Member States at European level.** The most important of these are the following:

- **extension of the scope of application** of the Directive to all consumer protection rules;
- **extension of the effects of the decisions:** allow consumers to benefit directly from a judgment following a successful case, rather than being obliged to introduce new proceedings to enforce their rights; clear provisions on the possibility of compensating consumers and the method of doing so should be introduced into the Directive; the limitation period for claims by consumers affected by the legal infringement could be suspended during the injunction proceedings;
- **fast-track proceedings** for interim measures;
- **right to information:** qualified entities should have the right of access to the name and legal address of businesses involved in unlawful practices; companies should be obliged to make available the standard contracts that they use;
- **financing:** the “loser pays" principle should continue to apply in actions for injunction. However, this principle should be applied in a flexible manner which is favourable to qualified entities, as is the case in some Member States ;
- **enforcement of decisions:** Member States should be required to impose dissuasive penalties for non-compliance with injunction orders, in order to ensure that unfair business practices are unprofitable for traders.

Lastly, several stakeholders, including public authorities from some Member States, declared that **a mechanism of collective redress for consumers should be introduced at European level**, in addition to possible improvements on injunctions.

The Commission **takes note of the issues raised by stakeholders** and their suggestions to address them. It will continue monitoring the application of the Directive in the Member States. It will further assess how best to address with Member States the issues identified in this report, and how to achieve improvements within the current legal framework.

In conclusion, the Commission considers that t**here does not appear to be sufficiently strong reasons to propose amendments to the Directive at this stage**, and will review the situation when preparing the subsequent report on its application.

Injunctions for the protection of consumers' interests. Codification

2003/0099(COD) - 19/06/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the resolution drafted by Diana **WALLIS** (ALDE, UK) and approved the amended proposal for a directive on injunctions for the protection of consumers' interests (codified version).

Injunctions for the protection of consumers' interests. Codification

2003/0099(COD) - 16/11/2006 - Legislative proposal

The Commission has presented an amended proposal for a Directive of the European Parliament and of the Council on injunctions for the protection of consumers' interests (codified version).

It should be recalled that on 12 May 2003, the Commission presented a proposal for a Directive of the European Parliament and of the Council codifying Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests. In its opinion of 11 June 2003, the Consultative Working Party of the legal services set up under the Interinstitutional Agreement of 20 December 1994 on an accelerated working method for official codification of legislative texts has stated that the above proposal does indeed confine itself to straightforward codification, without any substantive changes to the acts covered by it.

In view of the new amendments which have been adopted in the meantime to the initial proposal, the Commission has decided to present – in accordance with Article 250(2) of the EC Treaty – an amended proposal for codification of the Directive in question. This amended proposal also takes account of the purely formal or editorial changes proposed by the Consultative Working Party of Legal Services, where these are considered justified. The proposed amendments concern changes to parts A and B of Annex II.

Injunctions for the protection of consumers' interests. Codification

2003/0099(COD) - 12/05/2003 - Initial legislative proposal

PURPOSE : to codify the EU Directive on injunctions for the protection of consumer's interests. CONTENT : the basis of this proposal lies in the various measures the EU has adopted to try and codify legislation in the event of ten (or less) amendments being made to an initial legislative act. This proposal recommends the codification of Directive 98/27/EC on injunctions for the protection of consumer's rights. It will be based on an accelerated fast track procedure for the adoption of codification instruments. The new Directive will supersede the various Directives incorporated in it. Their content is fully preserved, and they are brought together with only such formal amendments as are required by the codification exercise itself. The proposal follows preliminary consultation in all official languages. In so far as the Articles have been given new numbers, the correlation between the old and the new number is shown in a table contained in an Annex to the codified Directive.

Injunctions for the protection of consumers' interests. Codification

2003/0099(COD) - 21/10/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Giuseppe GARGANI (EPP-ED, Italy) and approved the Commission's proposal.

Injunctions for the protection of consumers' interests. Codification

2003/0099(COD) - 23/04/2009 - Final act

PURPOSE: to codify the EU Directive on injunctions for the protection of consumer's interests.

LEGISLATIVE ACT: Directive 2009/22/EC of the European Parliament and of the Council on injunctions for the protection of consumers' interests (codified version).

CONTENT: the purpose of this proposal is to undertake a codification of Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests has been substantially amended several times.

The new Directive will supersede the various Directives incorporated in it. Their content is fully preserved, and they are brought together with only such formal amendments as are required by the codification exercise itself.

ENTRY INTO FORCE: 29/12/2009.