

Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests (Codified version) (Text with EEA relevance)

Article 1

Scope

1 The purpose of this Directive is to approximate the laws, regulations and administrative provisions of the Member States relating to actions for an injunction referred to in Article 2 aimed at the protection of the collective interests of consumers included in the [F1Union acts listed in Annex I], with a view to ensuring the smooth functioning of the internal market.

2 For the purposes of this Directive, an infringement means any act contrary to the [F1Union acts listed in Annex I] as transposed into the internal legal order of the Member States which harms the collective interests referred to in paragraph 1.

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation \(EC\) No 2006/2004 and Directive 2009/22/EC \(Regulation on consumer ODR\)](#).

Article 2

Actions for an injunction

1 Member States shall designate the courts or administrative authorities competent to rule on proceedings commenced by qualified entities within the meaning of Article 3 seeking:

- a an order with all due expediency, where appropriate by way of summary procedure, requiring the cessation or prohibition of any infringement;
- b where appropriate, measures such as the publication of the decision, in full or in part, in such form as deemed adequate and/or the publication of a corrective statement with a view to eliminating the continuing effects of the infringement;
- c in so far as the legal system of the Member State concerned so permits, an order against the losing defendant for payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision within a time limit specified by the courts or administrative authorities, of a fixed amount for each day's delay or any other amount provided for in national legislation, with a view to ensuring compliance with the decisions.

2 This Directive shall be without prejudice to the rules of private international law with respect to the applicable law, that is, normally, either the law of the Member State where the infringement originated or the law of the Member State where the infringement has its effects.

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Article 3

Entities qualified to bring an action

For the purposes of this Directive, a ‘qualified entity’ means any body or organisation which, being properly constituted according to the law of a Member State, has a legitimate interest in ensuring that the provisions referred to in Article 1 are complied with, in particular:

- (a) one or more independent public bodies, specifically responsible for protecting the interests referred to in Article 1, in Member States in which such bodies exist; and/or
- (b) organisations whose purpose is to protect the interests referred to in Article 1, in accordance with the criteria laid down by the national law.

Article 4

Intra-Community infringements

1 Each Member State shall take the measures necessary to ensure that, in the event of an infringement originating in that Member State, any qualified entity from another Member State where the interests protected by that qualified entity are affected by the infringement, may apply to the court or administrative authority referred to in Article 2, on presentation of the list provided for in paragraph 3 of this Article. The courts or administrative authorities shall 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.

2 For the purposes of intra-Community infringements, and without prejudice to the rights granted to other entities under national legislation, the Member States shall, at the request of their qualified entities, communicate to the Commission that these entities are qualified to bring an action under Article 2. The Member States shall inform the Commission of the name and purpose of these qualified entities.

3 The Commission shall draw up a list of the qualified entities referred to in paragraph 2, with the specification of their purpose. This list shall be published in the *Official Journal of the European Union*; changes to this list shall be published without delay and the updated list shall be published every six months.

Article 5

Prior consultation

1 Member States may introduce or maintain in force provisions whereby the party that intends to seek an injunction can only start this procedure after it has tried to achieve the cessation of the infringement in consultation either with the defendant or with both the defendant and a qualified entity within the meaning of Article 3(a) of the Member State in which the injunction is sought. It shall be for the Member State to decide whether the party seeking the injunction must consult the qualified entity. If the cessation of the infringement is not achieved within two weeks after the request for consultation is received, the party concerned may bring an action for an injunction without any further delay.

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2 The rules governing prior consultation adopted by Member States shall be notified to the Commission and shall be published in the *Official Journal of the European Union*.

Article 6

Reports

1 Every three years and for the first time no later than 2 July 2003 the Commission shall submit to the European Parliament and to the Council a report on the application of this Directive.

2 In its first report the Commission shall examine in particular:

- a the scope of this Directive in relation to the protection of the collective interests of persons exercising a commercial, industrial, craft or professional activity;
- b the scope of this Directive as determined by the [F1Union acts listed in Annex II];
- c whether the prior consultation provided for in Article 5 has contributed to the effective protection of consumers.

Where appropriate, this report shall be accompanied by proposals with a view to amending this Directive.

Textual Amendments

- F1 Substituted by [Regulation \(EU\) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation \(EC\) No 2006/2004 and Directive 2009/22/EC \(Regulation on consumer ODR\)](#).

Article 7

Provisions for wider action

This Directive shall not prevent Member States from adopting or maintaining in force provisions designed to grant qualified entities and any other person concerned more extensive rights to bring action at national level.

Article 8

Implementation

Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

Article 9

Repeal

Directive 98/27/EC, as amended by the Directives set out in Annex II, Part A, is repealed, without prejudice to the obligations of the Member States concerning the time limits for transposition into national law and application of the Directives set out in Annex II, Part B.

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References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.

Article 10

Entry into force

This Directive shall enter into force on 29 December 2009.

Article 11

Addressees

This Directive is addressed to the Member States.