

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 (Text with EEA relevance)

CHAPTER 2

REPRESENTATIVE ACTIONS

Article 4

Qualified entities

1 Member States shall ensure that representative actions as provided for by this Directive can be brought by qualified entities designated by the Member States for this purpose.

2 Member States shall ensure that entities, in particular consumer organisations, including consumer organisations that represent members from more than one Member State, are eligible to be designated as qualified entities for the purpose of bringing domestic representative actions, cross-border representative actions, or both.

3 Member States shall designate an entity as referred to in paragraph 2 that has made a request for designation as a qualified entity for the purpose of bringing cross-border representative actions if that entity complies with all of the following criteria:

- a it is a legal person that is constituted in accordance with the national law of the Member State of its designation and can demonstrate 12 months of actual public activity in the protection of consumer interests prior to its request for designation;
- b its statutory purpose demonstrates that it has a legitimate interest in protecting consumer interests as provided for in the provisions of Union law referred to in Annex I;
- c it has a non-profit-making character;
- d it is not the subject of insolvency proceedings and is not declared insolvent;
- e it is independent and not influenced by persons other than consumers, in particular by traders, who have an economic interest in the bringing of any representative action, including in the event of funding by third parties, and, to that end, has established procedures to prevent such influence as well as to prevent conflicts of interest between itself, its funding providers and the interests of consumers;
- f it makes publicly available in plain and intelligible language by any appropriate means, in particular on its website, information that demonstrates that the entity complies with the criteria listed in points (a) to (e) and information about the sources of its funding in general, its organisational, management and membership structure, its statutory purpose and its activities.

4 Member States shall ensure that the criteria they use to designate an entity as a qualified entity for the purpose of bringing domestic representative actions are consistent with the objectives of this Directive in order to make the functioning of such representative actions effective and efficient.

5 Member States may decide that the criteria listed in paragraph 3 also apply to the designation of qualified entities for the purpose of bringing domestic representative actions.

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6 Member States may designate an entity as a qualified entity on an ad hoc basis for the purpose of bringing a particular domestic representative action, at the request of that entity if it complies with the criteria for designation as a qualified entity as provided for in national law.

7 Notwithstanding paragraphs 3 and 4, Member States may designate public bodies as qualified entities for the purpose of bringing representative actions. Member States may provide that public bodies already designated as qualified entities within the meaning of Article 3 of Directive 2009/22/EC are to remain designated as qualified entities for the purposes of this Directive.