



ACT4Consumers – Capacity & Tools for Collective Actions

Task 2.1

Analysis of the Implementation of the Directive in Two Member States: Austria and Croatia

Comparative analysis of the implementation of Directive (EU) 2020/1828 on representative actions

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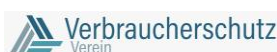
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Deliverable D2.1 – Report of the Implementation of the Directive in Two EU Member States

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About the project ACT4Consumers – Capacity & Tools for Collective Actions

ACT4Consumers is a 24-month European project aimed at strengthening the institutional, strategic and operational capacity of Croatian consumer organisations to effectively use representative actions under Directive (EU) 2020/1828.

The project addresses practical challenges related to the implementation of representative actions, including limited practical experience, resource constraints, consumer awareness and opportunities for cross-border cooperation. It combines capacity building, practical training, public awareness and European cooperation to support stronger collective consumer protection.

The project is coordinated by the **Female Consumer Club (Društvo Potrošačica), Croatia**, together with **Verein zum Schutz von Verbraucherinteressen (Verbraucherschutzverein – VSV), Austria**, and **Društvo Potrošača Međimurja, Croatia**, with **Centro Tutela Consumatori Utenti (CTCU), Italy**, as an associated partner.

PROJECT INFORMATION

Project	ACT4Consumers – Capacity & Tools for Collective Actions
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Call	SMP-CONS-2025-ADR-RAD
Fokus	Representative Actions and collective consumer redress
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Project website	www.act4rad.eu

PROJECT OBJECTIVES

ACT4Consumers has four interconnected objectives:

- 1. Strengthen capacities** - To strengthen the legal, procedural, strategic and operational capacity of Croatian Qualified Entities to initiate and manage representative actions.
- 2. Empower consumers** - To increase consumers' awareness of their collective rights, available redress mechanisms and the role of Qualified Entities.
- 3. Strengthen European cooperation** - To facilitate knowledge exchange, peer learning and cooperation between consumer organizations from Croatia, Austria and Italy.
- 4. Develop practical tools** - To create practical guidance, training materials and other resources that can support the effective implementation of representative actions in Croatia and beyond.

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Summary

The objective of this analysis is to present a comparative overview of the implementation of Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers in the Republic of Croatia and the Republic of Austria. In the introduction, the authors provide a brief overview of the legal instruments available to consumers prior to the transposition, followed by the rationale for enacting the new legislative frameworks. In the main body, the authors analyze the specific procedural mechanisms established under the national transpositions, with particular attention to judicial jurisdiction, the statutory criteria for the designation of qualified entities, and the rules governing third-party litigation funding. In the final section of the main body, the authors offer a comparative matrix of the current framework, evaluating the operational realities of both jurisdictions, including the complete absence of judicial practice in Croatia as of September 2026, and the practical friction regarding claim similarity observed in Austria. Finally, the conclusion presents a theoretical foundation for the development of educational activities under the ACT4Consumers project and proposes concrete policy recommendations to enhance the administrative and operational efficiency of representative actions.¹

¹ Note on Transparency: This analysis was originally authored in Croatian. In accordance with the principles of transparency and the responsible use of AI in EU project documentation, the text was translated and refined into the *English language* with the help of Google Gemini and EUDict, available at: eudict.com

Introduction

1. Collective Redress Mechanisms in the Republic of Croatia prior to the adoption of Directive (EU) 2020/1828

Collective legal protection, encompassing not only consumers but also other groups, has been a subject of ongoing debate in Brussels for many years. *“On the other hand, efforts to implement and improve mechanisms for the protection of collective interests and rights, both consumer and broader, are evident, having gained initial footing in Commission Recommendation 2013/396/EU of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights under Union Law...”*²

Although the Recommendation³ was adopted in 2013, the Directive⁴ was enacted seven years later (and implemented in national legislation by Member States even later), clearly indicating a persistent lack of strong political will among Member States to establish harmonized and effective collective redress procedures. This is further reinforced by the fact that collective consumer protection proceedings in practice frequently remained ineffective, yielding no measurable results – an outcome primarily attributable to the fragmentation and pronounced divergence of procedural mechanisms across the Member States themselves. Furthermore, it should be emphasized that the Directive, in contrast to the Recommendation, encompassed solely collective redress for consumers.

Prior to the implementation of the Directive, the collective legal redress framework in the Republic of Croatia relied on a limited number of procedural instruments, primarily embedded in Civil Procedure Act⁵ and previous consumer protection legislation.

The action for the Protection of Collective Interests and Rights enabled authorized entities and associations to institute legal proceedings seeking a declaratory judgment that certain conduct infringed collective consumer interests and rights, alongside an injunction prohibiting such conduct in the future. However, the fundamental limitation of this mechanism was the inability to directly award damages or restitution based on unjust enrichment to injured consumers within the collective proceeding itself.

² Maganić Aleksandra, Predstavničke tužbe za zaštitu kolektivnih interesa i prava potrošača u Republici Hrvatskoj, (*Representative Actions for the Protection of Collective Interests and Rights of the Consumers in the Republic of Croatia*), Zbornik radova Aktualnosti građanskog i trgovačkog zakonodavstva i pravne prakse, No. 20, Mostar, 2023., p. 147

³ Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanism in the Member States concerning violations of rights granted under Union Law (2013/396/EU)

⁴ 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

⁵ Civil Procedure Act, Official Gazette No. 4/77 to 146/25 from 11 December 2025

As a direct consequence of the aforementioned limitations, a court decision delivered in collective proceedings served merely on a legal basis. Each individual consumer was required to independently engage in civil litigation before the competent municipal court to enforce their claim, bearing the burden of individually proving the extent of damage and causation.

Amendments to the Civil Procedure Act in 2019 introduced the mechanism of model proceeding for the protection of rights common to a larger number of people. This instrument allowed municipal courts to request the Supreme Court of the Republic of Croatia to adopt a binding legal opinion when the outcome of a large number of individual lawsuits depended on a disputed point of law. Although it contributed to the harmonization of judicial practice, the model proceeding did not constitute a collective action, instead, it functioned as a procedural stay of individual lawsuits pending the decision of the highest court.

2. The Act on Representative Actions: Rationale for Enactment

The rationale for enacting the Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers primarily stems from the obligation to align national legislation with the Directive and the necessity to eliminate long-standing procedural limitations of the previous system and instruments embedded in the Civil Procedure Act.⁶

The pre-existing framework permitted only declaratory judicial decisions and injunctive relief, leaving the enforcement of claims entirely dependent on individual follow-on litigation by injured consumers. Such procedural fragmentation and the inability to achieve direct collective redress within a single proceeding resulted in excessive delay and systematic inefficiency. For example, individual consumer disputes arising from the “Swiss Franc case” in Croatia remain ongoing. Consequently, the new legislative framework was introduced to establish an effective mechanism for direct consumer redress, balance rights of protection with the prevention of litigation abuse and implement stricter control over qualified entities.⁷⁸

A major turning point at the Union level was the Commission’s 2018 initiative titled “A New Deal for Consumers” (COM/2018/183 final). In this document, following an evaluation of previous non-binding recommendations, the Commission concluded that the voluntary approach had not fully achieved the desired outcomes due to systemic power imbalances,

⁶ Maganić Aleksandra, Predstavničke tužbe za zaštitu kolektivnih interesa i prava potrošača u Republici Hrvatskoj, (*Representative Actions for the Protection of Collective Interests and Rights of the Consumers in the Republic of Croatia*), Zbornik radova Aktualnosti građanskog i trgovačkog zakonodavstva i pravne prakse, No. 20, Mostar, 2023.

⁷ Maganić Aleksandra, Predstavničke tužbe za zaštitu kolektivnih interesa i prava potrošača u Republici Hrvatskoj, (*Representative Actions for the Protection of Collective Interests and Rights of the Consumers in the Republic of Croatia*), Zbornik radova Aktualnosti građanskog i trgovačkog zakonodavstva i pravne prakse, No. 20, Mostar, 2023.

⁸ Maja Josipović, Uređenje predstavničkih tužbi za zaštitu kolektivnih interesa i prava potrošača (Regulation of Representative Actions for the Protection of the Collective Interests and Rights of Consumers), Informator, No. 6795-6796, 4 October 2023, available at: <https://informator.hr/strucni-clanci/uredenje-predstavnickih-tuzbi-zazastitu-kolektivnih-interesa-i-prava-potrosaca>

emphasizing the imperative transition to a binding regulatory framework that guarantees effective compensatory collective redress for consumers across all Member States.⁹

Furthermore, the Directive does not prevent Member States from maintaining existing national legal instruments for the protection of collective consumer interests or adopting new ones. Instead, it establishes the necessity of ensuring at least one procedural mechanism enabling qualified entities to bring representative actions in accordance with the objectives of the Directive.¹⁰

At the national level, the official rationale set forth in the Final Draft of the Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers explicitly confirms that the former model under the Civil Procedure Act did not provide adequate redress in cases of mass harm. In its explanatory memorandum, the legislator stresses that conducting separate collective claims and proceedings and subsequent individual litigation imposed a disproportionate procedural and financial burden on consumers, thereby justifying the necessity of establishing a unified and efficient mechanism.¹¹

In the context of justifying the necessity of such a mechanism, it is emphasized: *“In proceedings concerning individual consumer loss, in cases of dispersed and low-value damage, consumers generally decide against filing a lawsuit due to the small value of each harm, as a consequence of which the trader typically continues the unlawful practice, which remains highly unlikely to be penalized.”*¹²

Likewise, the economic capacity of the consumers within individual Member States must also be considered. For instance, according to the official data from the Croatian Bureau of Statistics, the average monthly net salary in the Republic of Croatia in 2026 stands at approximately 1.540,00 EUR¹³, which further disincentivizes consumers from seeking legal protection. Given that litigation can span several years, the prolonged payment of court fees and legal representation costs constitute a significant financial burden on an individual claimant, particularly in situations where the costs of enforcing rights would exceed the awarded damages in the event of a successful outcome. Consequently, the incentive to initiate individual litigation is effectively rendered non-existent in practice, while the absence of effective sanctions encourages traders to persist in unlawful practices.

⁹ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee, A New Deal for Consumers, COM (2018) 183 final, Brussels, 11 April 2018

¹⁰ 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, Article 1, Recitals 11 and 13

¹¹ Government of the Republic of Croatia, Final Draft Act of Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Zagreb, 2023

¹² Maganić Aleksandra, Predstavničke tužbe za zaštitu kolektivnih interesa i prava potrošača u Republici Hrvatskoj, (*Representative Actions for the Protection of Collective Interests and Rights of the Consumers in the Republic of Croatia*), Zbornik radova Aktualnosti građanskog i trgovačkog zakonodavstva i pravne prakse, No. 20, Mostar, 2023., p. 148

¹³ Croatian Bureau of Statistics, Average monthly net earnings in July 2026 amounted to 1.540,00 euro, Zagreb, 22 September 2026, available at: <https://dzs.gov.hr/news/average-monthly-net-earnings-in-july-2026-amounted-to-1-nbsp-540-euro/2658>

Main Body

3. Directive and objectives

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 constitutes a cornerstone legal instrument aimed at establishing a harmonised procedural mechanism at the Union level.¹⁴

Its primary objective is to achieve a high level of consumer protection and ensure the proper functioning of the internal market by reducing the fragmentation of national procedural laws and ensuring that all consumers in the Union have access to effective remedies against infringements of law.¹⁵

The material scope of the Directive is extensively defined through a system of cross-references to Union law legal acts listed in its Annex I. In contrast to predecessor Directive 2009/22/EC, which encompassed a relatively narrow range of sectoral regulations, the new Directive substantially expands its scope of application across critical economic sectors where infringements frequently cause mass harm e.g. financial services, capital markets, data protection, energy, passenger rights, general product safety etc.¹⁶

Substantively, the Directive establishes a dual-pillar system of procedural protection, requiring Member States to ensure that representative actions are available for both injunctive measures and redress measures. Injunctive measures aim at the cessation or prohibition of a trader's unlawful practice, without the necessity of proving actual loss or damage, or intent or negligence on the part of the trader. Redress measures require decisions granting remedies such as compensation, repair, replacement, price reduction, contract termination, or reimbursement of the price paid.^{17,18}

The Directive is grounded in the principle of minimum harmonisation, granting Member States discretion in shaping procedural rules, such as selecting between “opt-in” and “opt-out” systems for domestic consumers, provided that the effectiveness of the remedy is guaranteed and abusive litigation is effectively prevented.

¹⁴ 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, Article 1

¹⁵ 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, Recitals 1,2 and 7

¹⁶ Annex I to 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, Official Journal of the European Union, Legislation, 409, 4 December 2020

¹⁷ 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, Article 8, Article 9

¹⁸ Maganić Aleksandra, Predstavničke tužbe za zaštitu kolektivnih interesa i prava potrošača u Republici Hrvatskoj, (*Representative Actions for the Protection of Collective Interests and Rights of the Consumers in the Republic of Croatia*), Zbornik radova Aktualnosti građanskog i trgovačkog zakonodavstva i pravne prakse, No. 20, Mostar, 2023., p. 154-158

4. Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers

The Act on Representative Actions for the Protection of Collective Interests and rights of Consumers, constitutes the primary national legislative enactment whereby the Republic of Croatia implemented the Directive into its domestic legal order.¹⁹

The subject matter of the Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers encompasses the regulation of procedural rules under which designated qualified entities may bring representative actions for the protection of the collective interests and rights of consumers in domestic and cross-border disputes. The Act lays down the statutory criteria for the designation of qualified entities, rules governing third-party funding of representative actions and the procedural mechanisms for granting both injunctive and redress measures.²⁰

From a doctrinal standpoint, the Act functions as a special law in relation to the Civil Procedure Act, which serves as the general procedural law. Consequently, the provisions of the Civil Procedure Act apply to proceedings instituted under the Act on a subsidiary basis, governing only those procedural matters not explicitly and comprehensively regulated by the Act itself.²¹

The scope of the Act is established through a system of cross-references to infringements of specific statutes and regulations in the field of consumer protection. This achieves complete alignment with Annex I to the Directive, ensuring that representative actions can be brought across a wide spectrum of Union and national law infringements, ranging from financial services to data protection.

4.1. Jurisdiction and Composition of the Court

The Directive does not lay down specific internal rules on subject-matter or territorial jurisdiction for the national courts of Member States but leaves the determination of competent courts to the procedural autonomy of the Member States. The Directive itself leaves it to the discretion of the Member States to decide whether representative actions may be brought in judicial or administrative proceedings, or both. The requisite condition imposed by the

¹⁹ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, 25 June 2023

²⁰ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 1

²¹ Maganić Aleksandra, Predstavničke tužbe za zaštitu kolektivnih interesa i prava potrošača u Republici Hrvatskoj, (*Representative Actions for the Protection of Collective Interests and Rights of the Consumers in the Republic of Croatia*), Zbornik radova Aktualnosti građanskog i trgovačkog zakonodavstva i pravne prakse, No. 20, Mostar, 2023., p. 162-164

Directive on Member States is the obligation to ensure an effective legal remedy for the parties to the proceedings, in accordance with the Charter.²²²³²⁴

When implementing the Directive, the Republic of Croatia entrusted the jurisdiction for adjudicating such disputes to the courts, designating commercial courts as having first-instance subject-matter jurisdiction. In Draft Act itself, the stated rationale for this choice was the necessity of court specialisation when adjudicating and resolving complex disputes initiated by representative actions.²⁵²⁶

Regarding the territorial jurisdiction of commercial courts, the Act also establishes an elective (alternative) territorial jurisdiction model. Alongside the court of general territorial jurisdiction, which is the forum of the defendant's domicile or seat, competence also lies with the court within whose territorial district the infringement of the provisions set out in Annex I to the Act occurred or could have occurred. The legislator thereby intentionally rejected the model of strict judicial concentration within a single centralised court, thus preventing a system overload at an individual venue and ensuring enhanced and broader accessibility to the justice system across the entire territory of the Republic of Croatia. By establishing an alternative forum at the place where the infringement occurred or could have occurred, qualified entities are afforded the procedural option to bring a claim before the court within whose territorial jurisdiction the unlawful conduct directly impacts the collective interests of consumers.²⁷²⁸

Regarding second-instance jurisdiction, since the Act contains no specific provisions, based on Article 3 of the Act, governing the subsidiary application of the Civil Procedure Act, and Article 24 of the Courts Act, appeals against first-instance decisions rendered by commercial courts are adjudicated in the second instance by the High Commercial Court of the Republic of Croatia.²⁹³⁰

²² Charter of Fundamental Rights of the European Union, Official Journal, Communications, 326, 26 October 2012, Article 47

²³ 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, Recitals No. 19 and 21

²⁴ Maganić Aleksandra, Predstavničke tužbe za zaštitu kolektivnih interesa i prava potrošača u Republici Hrvatskoj, (*Representative Actions for the Protection of Collective Interests and Rights of the Consumers in the Republic of Croatia*), Zbornik radova Aktualnosti građanskog i trgovačkog zakonodavstva i pravne prakse, No. 20, Mostar, 2023., p. 150-152

²⁵ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 7

²⁶ Government of the Republic of Croatia, Final Draft Act of Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Zagreb, 2023

²⁷ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 7

²⁸ Maganić Aleksandra, Predstavničke tužbe za zaštitu kolektivnih interesa i prava potrošača u Republici Hrvatskoj, (*Representative Actions for the Protection of Collective Interests and Rights of the Consumers in the Republic of Croatia*), Zbornik radova Aktualnosti građanskog i trgovačkog zakonodavstva i pravne prakse, No. 20, Mostar, 2023., p. 150-152

²⁹ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 3

³⁰ Courts Act, Official Gazette, No 28/13 to 155/23, Article 24

The composition of the court is governed by the application of Civil Procedure Act. First-instance proceedings are adjudicated by a sole judge of a commercial court. Appeals are adjudicated by a panel of three judges of the High Commercial Court of the Republic of Croatia.³¹³²

4.2. Parties

Proceedings initiated by a representative action follow the model of representative standing, wherein injured individual consumers do not possess party status in the litigation. Within these types of proceedings, party status is held exclusively by the qualified entity as the plaintiff and the trader as the defendant. This procedural structure ensures the effective protection of collective consumer interests while preventing uncoordinated mass litigation.³³

The party possessing passive legal standing in the proceedings is the trader. A trader is a person who independently and continuously carries out an economic activity for the purpose of generating profit through the production or trade of goods or the provision of services on the market.³⁴³⁵

On the other hand, active legal standing belongs exclusively to a qualified entity designated and included in the official list of qualified entities. The legal framework distinguishes between two categories of entities capable of attaining this status: consumer protection associations and federations and competent public bodies. For an association or federation to be designated on the Register, it must cumulatively satisfy the statutory prerequisites set forth in Article 9 of the Act. This entails registration in the Register of Associations and the Register of Non-Profit Organizations in the Republic of Croatia, a statutory objective dedicated to protecting consumer rights and interests, at least 12 months of public and active engagement in consumer protection prior to applying, non-profit operation, ensuring that assets and revenues are utilised strictly for achieving statutory objectives, full financial independence and the absence of conflicts of interest, transparent disclosure of funding sources, organizational structure, and statutory goals, and the absence of bankruptcy, liquidation, or insolvency proceedings. As for competent public bodies, they may possess active legal standing provided that the regulations safeguarding collective consumer interests fall within their scope of authority and that bringing a representative action does not give rise to a conflict of interest in the performance of their primary public duties.³⁶

By way of exception, the competent court may grant active legal standing to bring a domestic representative action to an association that is not included in the official list, provided

³¹ Civil Procedure Act, Official Gazette, No. 4/77 to 146/25, Article 21

³² Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 3

³³ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 8

³⁴ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 8

³⁵ Companies Act, Official Gazette, No. 111/93 to 130/23, Article 3

³⁶ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 9

it satisfies the criteria laid down in Article 9 of the Act. Active legal standing granted in this manner applies exclusively to that specific litigation and may only be granted in proceedings concerning a domestic representative action, through which the legislature provided a more flexible view of the Register.³⁷

Regarding the oversight of compliance with statutory prerequisites by listed entities, the Ministry of Economy acts as the competent authority and contact point for receiving and deciding upon petitions concerning any non-fulfilment of the criteria set forth in Article 9 of the Act, in accordance with the regulations governing general administrative procedure.³⁸

5. Representative actions

The statutory framework under the Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers establishes a comprehensive system of collective redress comprising three primary categories of representative actions. These consist of representative actions seeking a declaration of infringement of applicable statutory provisions, representative actions seeking redress measures, including compensation for material and non-material damage or the disgorgement of unjust enrichment.³⁹

Prior to initiating judicial proceedings for declaratory or injunctive relief, the legislation mandates a compulsory pre-litigation notice procedure. The qualified entity is required to serve a formal written notice on the trader regarding the alleged infringement, granting a period of at least 30 days from the date of delivery to remedy the violation before an action may be filed with the court. With respect to representative actions for redress, the parties may, prior to commencing litigation, submit a proposal to resolve the dispute through mediation before recognized alternative dispute resolution bodies. The promotion of amicable dispute resolution continues throughout the judicial proceedings. At the preliminary hearing, the court is under a statutory duty to inform the parties of the possibility of reaching a judicial settlement or engaging in mediation. In evaluating a proposed judicial settlement, the court performs a supervisory function, assessing ex officio whether the dispositions made by the parties are equitable and compliant with mandatory statutory rules and public policy. Where necessary, the court may adjourn the issuance of an order refusing the settlement to request additional information.⁴⁰

To ensure prompt judicial protection and prevent irreparable harm, proceedings concerning declaratory and injunctive measures are governed by a strict principle of urgency. The court may, ex officio or upon application by the plaintiff, issue interim measures ordering a cessation of unlawful conduct in accordance with the Enforcement Act, without prior hearing

³⁷ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 11

³⁸ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 12

³⁹ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 13

⁴⁰ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 14-16

of the opposing party, to avert an imminent threat or prevent further damage. Statutory deadlines in these proceedings are highly expedited. The preliminary hearing must be held within 30 days of receiving the response to the lawsuit, the decision on interim measures must be rendered and dispatched within 30 days of the preliminary hearing and the appellate court is required to decide on any appeal within 30 days of receipt. Exceeding these statutory timeframes is permissible only for compelling reasons, which the presiding judge must formally report to the president of the court. When ordering specific performance or monetary relief in the final judgment, the court determines an appropriate compliance period by considering the specific circumstances of the case and adhering to the overarching principle of urgency.⁴¹

Regarding the structural requirements of the lawsuit and consumer participation, the Act draws a clear distinction between preventive actions and redress measures. For injunctive or declaratory actions, the claimant is not required to specify the quantum of damage, demonstrate fault on the part of the trader, or present individual authorisations from affected consumers. Conversely, representative actions for redress adopt an explicit opt-in mechanism, requiring affected consumers to execute a written, signed statement of intent authorising the qualified entity to represent them. A claim for redress must contain a nominative schedule of all participating consumers, including their Personal Identification Numbers (PIN) and the precise itemisation of individual damage claimed. The qualified entity retains the right to amend the lawsuit for redress up to the conclusion of the main hearing. The filing of a representative action interrupts the statute of limitations for all participating consumers. Furthermore, while the action is pending, bound consumers are precluded from initiating individual or collective proceedings against the same trader based on the same factual and legal grounds, a procedural bar that the court enforces *ex officio*.⁴²

In the evidentiary stage, the court has the power to order the opposing party or a third party to disclose relevant evidence within their control, provided such evidence is necessary for determining the facts and has been specifically identified by a party in its pleadings or during the preliminary hearing. The Act comprehensively regulates third-party litigation funding to prevent conflicts of interest and preserve the plaintiff's procedural independence. Funding of a representative action for redress by a competitor of the defendant or an entity controlled by or dependent on the defendant is strictly prohibited, and third-party funders are barred from exerting influence over the plaintiff's procedural decisions, including settlement negotiations. The court monitors the financial independence of the qualified entity *ex officio* or upon the defendant's motion and may order the production of financial disclosures outlining the sources of funding. As to litigation costs, qualified entities are exempt from court fees, whereas participating consumers may only be charged a nominal entry fee not exceeding 5% of their individual claim value, subject to an absolute ceiling of 70,00 EUR.⁴³

In a judgment upholding the claim, the court formally declares the occurrence of a statutory infringement, orders the immediate cessation of unlawful practices, mandates

⁴¹ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 17,18,25

⁴² Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 19, 21, 22, 23, 30

⁴³ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 20, 28, 29, 31

corrective measures to eliminate the harmful consequences, and awards damages or restitution based on unjust enrichment. The court may also order the full or partial publication of the judgment in the media at defendant's expense. Conversely, if a representative action for redress is dismissed or rejected, the qualified entity is obligated to inform all participating consumers of the final adverse outcome at its own expense. Where a party fails to voluntarily comply with judicial orders regarding interim measures, evidence disclosure, injunctive prohibitions, or judgment publication, the court imposes daily periodic penalty payments in accordance with Enforcement Act, which are paid directly into the state budget. Crucially, a final judgment establishing an infringement carries binding evidentiary effect, allowing individual consumers and interested parties to rely on it as conclusive evidence in subsequent individual actions for damages against the same trader for the same practice.⁴⁴

Transparency in collective redress proceedings is maintained through mandatory disclosure obligations. Qualified entities must publish information regarding intended actions, ongoing proceedings, and final outcomes on their official websites. Similarly, a trader named as a defendant in a redress action is required to adequately inform potentially affected consumers of the pending litigation. The Ministry of Economy, as a competent authority, maintains and publishes an official list of qualified entities alongside a public repository of representative actions, while commercial courts routinely transmit details of filed actions, final judgments, and court-approved settlements. Finally, to facilitate monitoring of the framework's effectiveness across the European Union, the Ministry collects and submits comprehensive statistical data regarding the implementation of representative actions to the European Commission, with the initial report due by June 26, 2027, and subsequent reports every four years thereafter.⁴⁵

From a practical and operational standpoint, the newly established Croatian framework for representative actions remains entirely untested. Although the comprehensive legislative infrastructure was successfully introduced through the Act on 25 June 2023, no representative actions have been initiated before the competent commercial courts as of September 2026. Consequently, a complete absence of domestic case law persists within the national legal order. This lack of judicial application leaves critical procedural mechanisms unresolved, particularly regarding the interpretation of statutory criteria, the administrative management of nominal consumer lists under the strict "opt-in" model, the judicial scrutiny of third-party litigation funding, and the practical implementation of binding evidentiary effects flowing from final judgments.

The main practical requirements associated with initiating and managing a representative action can be summarised as follows:

⁴⁴ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article 24, 26, 27

⁴⁵ Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, Official Gazette No. 59/2023, Article čl 32, 33, 34

Table 1. Practical Requirements for Initiating and Managing a Representative Action

STAGE	MAIN REQUIREMENTS
BEFORE FILING	Identification of consumer harm; assessment of the legal grounds; identification and assessment of relevant evidence; assessment of whether the case meets the requirements for a representative action.
PREPARATION OF THE ACTION	Verification of the qualified entity's standing and eligibility; preparation of the statement of claim and supporting documentation; identification of affected consumers and, where required, obtaining their written and signed authorisations.
DURING PROCEEDINGS	Legal representation; collection, management and presentation of evidence; compliance with procedural requirements; communication with participating consumers; responding to requests from the court and the opposing party.
REDRESS STAGE	Identification and documentation of participating consumers; specification of individual claims where required; communication of relevant procedural information; implementation and distribution of redress in accordance with the judgment or approved settlement.
FUNDING AND ADMINISTRATION	Securing adequate financial and professional resources; management of consumer and case-related documentation; maintaining communication channels; ensuring transparency and procedural independence throughout the proceedings.

6. Comparative Analysis: The Republic of Austria

In the Republic of Austria, the Directive was transposed through the Representative Actions Directive Transposition Amending Act which entered into force on 18 July 2024. Similar to the procedural challenges observed in other Member States, this transposition, subsequently to the official Union deadline, follows the initiation of infringement proceedings by the Commission. The Representative Actions Directive Transposition Amending Act introduced two primary legislative changes within the domestic legal framework: new procedural provisions embedded in the Code of Civil Procedure and the enactment of a new, standalone Qualified Entities Act.⁴⁶

The Qualified Entities Act designates a specific number of qualified entities *ex lege*. These encompass organizations historically authorized to bring traditional injunctive actions under Sections 28–30 of the Consumer Protection Act. While certain statutory bodies designated by law, such as the Economic Chamber, the Chamber of Agriculture, and the Trade Union Federation, have shown limited operational interest in actively utilizing this procedural status, the Chamber of Labour and the Association for Consumer Information operate as the primary active qualified entities driving enforcement. In addition to this statutory list, other

⁴⁶ Representative Actions Directive Transposition Amending Act, Federal Law Gazette for the Republic of Austria, No. 109/2024.

independent organizations may apply for official designation regarding domestic, cross-border, or both types of actions, provided they cumulatively meet the harmonised criteria laid down in the Directive, including a non-profit purpose, a minimum of 12 months of active public engagement in consumer protection, and full financial independence from litigation funders.⁴⁷⁴⁸

The Austrian procedural framework structures these proceedings into two distinct pathways. First, Injunctive Actions aim at the immediate cessation or prohibition of unlawful commercial practices. Within this track, the qualified entity possesses autonomous standing to bring a lawsuit without representing individual consumers as plaintiffs, and a successful outcome mandates the defendant to publish the judgment in a public newspaper at their own expense. Injunctive relief serves as a low-risk procedural tool to clarify complex legal questions and interrupts the statute of limitations for all underlying individual consumer claims.⁴⁹

As a primary example of good practice regarding this mechanism, the Commercial Court of Vienna rendered a judgment on 13 July 2026 (Case No. 57 Cg 88/25d - 9) in an injunctive action initiated by a designated qualified entity, the Association for the Protection of Consumer Interests. The litigation was directed against a corporate defendant regarding systemic infringements in consumer contracts, specifically seeking an injunction valued at a procedural amount of 32,000 EUR, alongside a mandatory order for the publication of the judgment valued at 3,000 EUR, establishing a total amount in dispute of 35,000 EUR. Following a public oral hearing, the court upheld the claim on its merits, validating the practical effectiveness of autonomous standing where qualified entities can successfully eliminate unlawful trader practices and enforce market transparency without requiring the active procedural participation or financial mobilization of individual consumers.⁵⁰

Second, Redress Actions enable qualified entities to seek substantive remedies such as compensation, repair, replacement, price reduction, or reimbursement. Austria has adopted a strict "opt-in" mechanism for this track, requiring a minimum statutory quorum of 50 consumers with similar claims to formally join the action. While the qualified entity bears the primary financial risk of the litigation, a significant systemic barrier has emerged in judicial practice. Austrian courts apply exceptionally high standards regarding the "similarity" of claims, frequently forcing the fragmentation of consumer pools into smaller procedural groups. A crucial clarification is currently pending before the Supreme Court of Austria to define this threshold, as a restrictive approach risks rendering redress actions practically ineffective due to excessive administrative burden.⁵¹

Regarding procedural standing, the plaintiff organization must maintain its qualified status throughout the entirety of the litigation. However, defendants are precluded from raising objections regarding the plaintiff's standing during the civil proceedings. Monitoring

⁴⁷ Qualified Entities Act (QEG), Federal Law Gazette for the Republic of Austria, No. 109/2024, Sections 1, 2, and 4

⁴⁸ Consumer Protection Act (KSchG), Federal Law Gazette for the Republic of Austria, No. 140/1979, as amended, Sections 28–30

⁴⁹ Code of Civil Procedure, Imperial Law Gazette, No. 113/1895, as amended by VRUN, Federal Law Gazette for the Republic of Austria, No. 109/2024, Sections 619

⁵⁰ Commercial Court of Vienna, Judgment of 13 July 2026, Case No. 57 Cg 88/25d - 9

⁵¹ Code of Civil Procedure (ZPO), Imperial Law Gazette, No. 113/1895, as amended by VRUN, Federal Law Gazette for the Republic of Austria, No. 109/2024, Section 622

compliance with statutory criteria falls within the exclusive competence of the regulatory authority, the Federal Cartel Prosecutor, and remains non-reviewable by civil courts. Finally, the newly introduced mechanisms operate in parallel with existing traditional instruments, meaning that the classical injunctive representative action and the "Austrian-style class action" based on the assignment model remain fully available alongside the new regime.⁵²

In conclusion, a comparative analysis of the national transpositions in the Republic of Croatia and the Republic of Austria reveals divergent paths within the framework of procedural autonomy, yet identical systemic barriers regarding consumer redress. Both Member States opted for a strict "opt-in" mechanism for redress actions, imposing high organizational and administrative burdens on qualified entities. However, while the Croatian legislative infrastructure remains entirely untested in practice with zero filed actions, the Austrian framework has already encountered substantial judicial friction. The primary systemic hurdle identified in the Austrian experience, namely, the exceptionally high threshold enforced by courts regarding the "similarity" of consumer claims, serves as a critical warning for the future application of the Croatian Act. Unless judicial practice adopts a flexible, harmonised approach toward claim aggregation, the redress mechanisms in both jurisdictions risk becoming practically ineffective, thereby shifting enforcement weights back onto traditional injunctive actions or individual litigation.

TABLE 2: Comparative Overview of the Croatian and Austrian Frameworks

ELEMENT	CROATIA	AUSTRIA
NATIONAL TRANSPOSITION	Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers (Official Gazette No. 59/2023), as the specific procedural framework for representative actions. The Civil Procedure Act applies subsidiarily.	Representative Actions Directive Transposition Amending Act (Federal Law Gazette No. 109/2024), in force since 18 July 2024. The reform introduced procedural provisions in the Code of Civil Procedure and a separate Qualified Entities Act (QEG).
QUALIFIED ENTITIES (QES): STATUS AND REQUIREMENTS	Qualified entities may be consumer associations/federations or competent public bodies. Consumer organisations must meet statutory requirements, including non-profit status, at least 12 months of active public engagement in consumer protection, financial independence, absence of conflicts of interest and	Certain organisations are designated as qualified entities ex lege, including organisations previously authorised to bring traditional injunctive actions. Other independent organisations may apply for designation for domestic and/or cross-border actions, subject to requirements including non-profit purpose, at least 12 months of active public engagement in consumer

⁵² Qualified Entities Act (QEG), Federal Law Gazette for the Republic of Austria, No. 109/2024, Section 7

	transparency of funding and organisational structure.	protection and financial independence from litigation funders.
REPRESENTATIVE ACTIONS FOR INJUNCTIONS / CESSATION	Available through declaratory and injunctive representative actions. A mandatory pre-litigation notice of at least 30 days applies before filing. Courts may order interim measures and proceedings are subject to expedited procedural deadlines.	Qualified entities may bring injunctive actions autonomously, without individual consumers being parties. The mechanism is intended to stop or prohibit unlawful commercial practices. A successful judgment may require publication at the defendant's expense and interrupts limitation periods for underlying individual claims.
REPRESENTATIVE ACTIONS FOR REDRESS	Available for compensation, restitution based on unjust enrichment and other redress measures. Redress actions operate under a strict opt-in model. Participating consumers must provide a written and signed authorisation and be individually identified in the claim.	Redress actions are available for compensation, repair, replacement, price reduction and reimbursement. Austria has adopted a strict opt-in model requiring at least 50 consumers with similar claims to join the action.
CONSUMER PARTICIPATION	Consumers are not parties to the representative action itself. For redress actions, affected consumers participate by expressly opting in and providing the required information and authorisation. A final judgment establishing an infringement may have binding evidentiary effect in subsequent individual proceedings.	Consumers do not participate as plaintiffs in injunctive actions. For redress actions, consumers must formally join the action. The requirement that claims be sufficiently similar has become an important practical issue in judicial proceedings.
FUNDING AND LITIGATION COSTS	Qualified entities are exempt from court fees. Participating consumers may be charged a nominal entry fee of up to 5% of the individual claim, capped at EUR 70. Third-party funding is permitted subject to safeguards against conflicts of interest and undue influence.	The qualified entity bears the primary financial risk of litigation. Third-party funding is subject to safeguards concerning independence and conflicts of interest. The practical financial burden includes legal, organisational and administrative resources required to prepare and conduct proceedings.

COMPETENT COURTS	Commercial courts have first-instance subject-matter jurisdiction. Territorial jurisdiction may lie with the court at the defendant's seat/domicile or the court in whose district the infringement occurred or could have occurred. Appeals are decided by the High Commercial Court.	Representative actions are handled within the Austrian civil court system. The new framework operates alongside existing injunctive actions and the traditional Austrian assignment-based model of collective litigation.
PRACTICAL EXPERIENCE AND CASE LAW	As of September 2026, no representative action has been initiated under the new framework. Consequently, there is currently no Croatian case law allowing assessment of the practical application of the new procedural rules.	The framework has already been applied in practice. A Commercial Court of Vienna judgment of 13 July 2026 (Case No. 57 Cg 88/25d-9) illustrates the use of injunctive actions. In redress proceedings, Austrian courts have applied demanding standards concerning the similarity of consumer claims; further clarification by the Supreme Court is pending.
KEY PRACTICAL CONSIDERATIONS	The main practical challenges identified are the organisational and financial capacity required of QEs, the administrative burden of identifying and communicating with consumers, collecting evidence and managing opt-in participation, and the absence of practical judicial experience.	Practical experience demonstrates that the similarity requirement for consumer claims may lead to fragmentation of consumer groups and increased administrative burdens. The Austrian experience provides an indication of procedural issues that may also become relevant in Croatia.

Conclusion

The implementation of the Directive in the Republic of Croatia must be evaluated from three interconnected perspectives: the legal, political, and social perspective. Since the entry into force of the Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers, no representative action has been initiated in Croatia. Therefore, the assessment of the practical effectiveness of the Croatian framework cannot be based on judicial practice or concrete experience. Consequently, the following conclusions evaluate the structural legal framework and the underlying conditions necessary for its future practical application.

From a legal perspective, the Republic of Croatia has formally implemented the Directive by adopting the Act on Representative Actions for the Protection of Collective Interests and Rights of Consumers. The Act establishes a specific procedural framework for representative actions and provides for both injunctive and redress measures, in full alignment with the core requirements of the Directive. It also regulates the designation of qualified entities, judicial jurisdiction, consumer participation, the disclosure of evidence, judicial settlements, third-party litigation funding, litigation costs, and procedural transparency.

However, formal transposition does not guarantee that the mechanism is practically accessible to qualified entities. The Croatian framework places significant procedural and organisational requirements on a qualified entity wishing to initiate a representative action. This is particularly evident in proceedings seeking redress measures. Under the Act, affected consumers must provide a written and signed statement of intent authorising the qualified entity to represent them, while the lawsuit must contain a nominal list of participating consumers, including their PIN numbers and a precise individual itemisation of the damage claimed. The qualified entity must therefore undertake substantial preparatory work prior to and throughout the proceedings.

The practical burden is not limited to the preparation of the lawsuit.. A potential representative action requires a qualified entity to identify a suitable case, establish the relevant legal grounds, collect and analyze the evidence, communicate with affected consumers, prepare the necessary documentation, and, where appropriate, secure legal counsel and professional expertise. The proceedings may subsequently require additional evidence, financial documentation, ongoing communication with consumers, settlement negotiations, and legal representation throughout potentially lengthy judicial proceedings. The Act also provides for rules concerning third-party litigation funding, empowering the court to scrutinise the financial independence of the qualified entity and its underlying sources of funding.

This creates an important distinction between having the legal right to initiate a representative action and having the practical capacity to exercise that right. The Directive itself recognises this distinction. Article 20 thereof mandates Member States to take measures aimed at ensuring that the costs of proceedings do not prevent qualified entities from effectively exercising their right to seek injunctive and redress relief. The Directive expressly identifies public funding, structural support for qualified entities, limitations on judicial or administrative fees, and access to legal aid as appropriate forms of assistance.

Consequently, the Croatian legal framework can be regarded as formally implementing the Directive, while leaving significant practical challenges for qualified entities with limited financial and human resources. The core issue is therefore not only whether the legislation provides a procedural mechanism, but whether a qualified entity can realistically mobilise the financial and operational resources necessary to effectively utilise that framework.

Financial resources are critical in this context. The costs associated with representative litigation arise not only from court fees. Even where statutory exemptions or limitations apply, a qualified entity may need to finance personnel, legal counsel, procedural representation, legal research, the preparation of the lawsuit, the collection and analysis of evidence, document management, communication with a potentially large number of consumers, and other auxiliary professional or administrative services. These costs frequently arise before the outcome of the proceedings is known. Consequently, the absence of sufficient financial resources may prevent a qualified entity from even reaching the stage at which a representative action can be formally initiated.

The Directive recognises third-party litigation funding as a viable financing alternative, subject to strict safeguards against conflicts of interest and undue influence. However, third-party litigation funding cannot inherently eliminate the need for qualified entities to possess sufficient organisational capacity to identify systemic infringements, assess their suitability for collective redress, and prepare a viable case file for both financing and subsequent litigation.

The Croatian situation is particularly significant because, as of the date of this analysis, no representative action has been initiated in Croatia under the new legislative framework. Consequently, there is currently no Croatian judicial practice from which it is possible to evaluate how procedural requirements operate on an operational level, or whether the mechanism is sufficiently accessible and effective in actual mass-harm situations. The assessment must therefore remain focused on structural legal analysis and the evaluation of the resources required for its future implementation.

The absence of representative actions does not, in itself, constitute conclusive proof that the Croatian legislation is procedurally flawed, or that financial constraints represent the sole cause for the absence of litigation. Nevertheless, it confirms that the formal transposition of the mechanism has not yet translated into active judicial practice. It also highlights a potential gap between formal legislative implementation and the practical ability of qualified entities to exercise the rights guaranteed under the Directive and domestic law.

From this perspective, the core challenge within the Croatian legal framework is not the absence of a procedural mechanism, but whether that framework, coupled with the prevailing financial and organisational conditions, provides qualified entities with a realistic opportunity to initiate and sustain representative actions. Without sufficient resources to employ or engage qualified personnel, secure legal counsel, manage complex documentation and evidence, and finance ongoing litigation, the statutory right to bring a representative action risk remaining predominantly theoretical.

Financial capacity is a critical operational prerequisite for the functioning of representative actions. The costs involved are not limited to court fees. A potential action may require allocated staff resources, legal counsel, procedural representation, legal research, the preparation of the lawsuit, the collection and analysis of evidence, document management,

communication with consumers, and ongoing administrative or procedural operations. A substantial part of these costs accrue before the outcome of the proceedings is known.

This is consistent with Article 20 of the Directive, which explicitly mandates Member States to take measures aimed at ensuring that the costs of proceedings do not prevent qualified entities from effectively exercising their rights. The Directive identifies, among other possibilities, public funding, structural support for qualified entities, the limitation of judicial fees, and access to legal aid as appropriate assistance mechanisms.

In Croatia, however, the mere designation as a qualified entity does not inherently provide an organization with stable institutional funding to execute this function. Institutional support mechanisms available to the consumer protection sector are generally restricted for individual consumer protection associations acting as qualified entities, as public resources are primarily directed toward consumer umbrella organisations. Consequently, an individual association may possess qualified entity status and bear the corresponding legal responsibilities and expectations, without access to a predictable institutional source of funding to support the human and organisational capacity required to prepare and sustain representative actions.

Third-party litigation funding may provide an alternative source of financing. However, it cannot fully substitute for baseline organisational capacity. A qualified entity must possess sufficient resources to identify potential infringements, assess their legal and factual merits, manage relevant documentation, communicate with consumers, and prepare the case file before external financing can realistically be sought.

The relatively small size of the Croatian consumer market may represent an additional structural challenge for commercial third-party litigation funding. Depending on the type of infringement, the number of affected consumers and the value of individual claims, the potential financial return of a representative action may be limited in comparison to larger national markets. This may reduce the attractiveness of certain Croatian cases to commercial funders, although the actual availability of funding would necessarily depend on the individual case and its financial prospects. Accordingly, the financial challenge should not be understood merely as a question of whether court fees are affordable. It concerns the broader question of whether qualified entities have sufficient and predictable resources to perform the complete operational cycle of representative action.

Technology could significantly facilitate the practical operation of representative actions, particularly in the identification and organisation of large numbers of affected consumers.

A dedicated digital mechanism could, for example, enable consumers to report potentially similar infringements, provide basic information about their case, upload supporting documents, express their interest in participating in a representative action and receive information about the progress of an action. Views and opinions expressed are, however, those of the author(s) only and do not necessarily reflect those of the European Union or the European Commission. Neither the European Union nor the granting authority can be held responsible for them. progress of an action. For qualified entities, such a system could facilitate the identification of recurring infringements, preliminary case screening, the structured collection of evidence, and ongoing communication with affected consumers.

At present, Croatia does not have a dedicated national digital platform specifically designed for these functions in representative actions. The absence of such a tool is particularly critical in the Croatian redress model, where individual consumer data and supporting documentation constitute an indispensable element of both the preparation and operational administration of a lawsuit.

At the Union level, the European Commission has developed the Representative Actions Collaboration Tool (EC-REACT), a secure and restricted electronic platform designed to support cooperation under Directive. It enables structured information exchange and collaboration among Member States, qualified entities, national judges, and the Commission. However, EC-REACT functions strictly as a restricted professional cooperation tool and does not provide a consumer-facing mechanism for registering participation in individual representative actions.

The development of tailored consumer-facing digital mechanisms at the national level constitutes a critical element in strengthening both the practical accessibility and operational efficiency of representative actions. The effectiveness of representative actions also depends on consumers being aware that such a mechanism exists and being able and willing to participate in it.

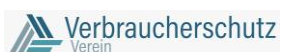
In Croatia, the absence of practical experience with representative actions means that consumers have not yet had the opportunity to familiarise themselves with this mechanism through active judicial precedent. For qualified entities, reaching and communicating with potentially affected consumers may inherently require substantial organisational and financial resources.

The Croatian model therefore places a critical emphasis on the capacity of qualified entities to identify affected consumers, obtain the data and supporting documentation required for active participation, and maintain continuous communication throughout the proceedings. Without adequate organisational capacity and effective communication channels, the formal availability of a representative action risks failing to automatically translate into effective consumer participation.

From the perspective of the Croatian experience to date, the main issue is not the absence of a formal legal mechanism. Croatia has successfully established a legislative framework implementing the Representative Actions Directive. The more fundamental question is whether the legal, financial, institutional, technological, and social conditions embedded within that framework are sufficient to enable qualified entities to utilise it effectively. The current situation suggests a potential gap between formal legislative implementation and practical operational capacity. The absence of any representative action since the Act entered into force means that this gap cannot yet be evaluated through judicial practice. Nevertheless, the strict procedural requirements, the extensive resources necessary to prepare and sustain proceedings, the limited availability of predictable institutional support for individual consumer protection associations acting as qualified entities, the potential challenges of third-party litigation funding in a relatively small national market, and the current absence of a dedicated national digital infrastructure are all critical factors when assessing the practical operation of the system. The Croatian framework should therefore be evaluated not only by asking whether the necessary legal procedures exist, but also whether qualified entities have realistic access to the financial, human, institutional, and technological resources necessary to utilise those procedures



effectively. Without such supporting conditions, the formally available right to bring a representative action risks remain theoretical.





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