







(3) EU Proposal 2018 allows measures eliminating a continuing effect of an infringement only where a final decision establishing that a practice constitutes an infringement of consumer law has been given, in practice there will be no significant difference to this Chapter. In a collective redress action under this Chapter courts and parties will also often agree on a two-step proceeding and courts may give a partial judgment on the question of liability or infringement before deciding on amount of damages or other remedies. Likewise Art. 5 (4) obliges Member States to ensure that the court decision establishing that a practiced violated consumer law and measures to eliminate the effects of the infringement can be sought within a single representative action. Art. 6 (2) EU Proposal 2018 allows Member States to restrict representative actions to declaratory relief under certain circumstances, particularly in cases where the quantification of individual damages or redress is complex, again there is no fundamental difference to this Chapter, because under Rule [X1] (1) (d) courts may decide to not admit a collective action if it will not resolve the dispute more efficiently than a joinder of the group members' individual claims.

Furthermore, according to Art. 8 EU Proposal 2018 Member States must ensure that qualified entities and traders can jointly request a court to approve a settlement they have negotiated in the general interest of consumers. This has a parallel in the third pillar of this Chapter, collective settlements under Rules X21 – X27.

## Part I General Part

### Rule [X1]<sup>1</sup> Collective Redress Action

**A collective redress action is an action which is brought by a qualified claimant on behalf of a group of persons who he claims are affected by an event giving rise to mass harm, where those persons are not parties to the action ("group members").**

#### Sources

##### In General:

Recommendation 2013/106; similar instruments are available (scope of application and rules on legal standing vary) in: Belgium (2014: "L'action en réparation collective" [Livre XVI, Titre 2 Code de droit économique]); Bulgaria (Chapter 33 of the Code of Civil Procedure, Articles 379– 388); Denmark (2008: Law no. 181, 28/2/2007: Sec. 254a-k Administration of Justice Act); England/Wales (Consumer Act 2015 Schedule 8 "Private Actions in Competition Law", Sec. 47B Competition Act 1998); France (Law No. 2014-344 March 17, 2014 and Decree No. 2014- 1081 of September 24, 2014 inserted articles L. 423-1 to L.423-32 and R.623-1 to R.623-33 of the Consumer Code)"Action de groupe" [Code de consommation, Titre II, Chap. III]; Law No. 2016-41 January 26, 2016 and the Decree no. 2016-1249 of September 28, 2016 (inserted at articles L. 1143-1 to L. 1143-22, R. 1143-1 to R.1143-11 and R. 1526-1 of the Public Health Code), Finland (Class Action Act 444/2007); Germany (Sec. 606-614 CPC as of 1 November 2018), Hungary (CPC 2.12.2016, MK 2016 No. 190 p. 7878, Part 8, Chapter XLII); Italy ("Azione di Classe") introduced by Article 140bis of

<sup>1</sup> Rules will be re-numbered in a final version. In some respects the draft also still requires harmonization with the drafts of other Working Groups (e.g. cost, lis pendens...).

























































































