



OBSERVATOIRE DES ACTIONS DE GROUPE
et autres Actions Collectives

German implementation of the Representative Actions Directive:

Act on the Implementation of Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC and amending the Capital Investor Model Case Act (Representative Action Directive Implementation Act - VRUG)

The German legislation implementing the Representative Actions Directive entered into force on 13 October 2023, the day after its official publication; overdue in terms of the transposition deadline, but still in advance of other Member States. It goes beyond the requirements of the Directive in several respects: its scope, for example, which includes actions on behalf of small businesses as well as consumers, and areas such as tort law. But it is also restrictive, including when it comes to remuneration for third-party funders and certain admissibility ('similarity') requirements. In any case, it widens possibilities for consumers to access redress rather than injunctive or declaratory measures, which were previously the only options.

Through the legislative process and draft texts, changes were made to reach the final state of the law. The existing Model Declaratory Action still applies and operates in conjunction with the new redress action.

To explore this topic further, see D Markworth, 'Implementation of the Representative Actions Directive (RAD) in Germany – Does the “VDuG” lack bite?'

For official texts: <https://www.recht.bund.de/bgbl/1/2023/272/VO.html>; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=NIM:202305639>