

*Dutch implementation of the Representative Actions Directive*

**Title:** Wet van 2 november 2022 tot wijziging van Boek 3 van het Burgerlijk Wetboek en het Wetboek van Burgerlijke Rechtsvordering in verband met de omzetting van Richtlijn (EU) 2020/1828 van het Europees Parlement en de Raad van 25 november 2020 betreffende representatieve vorderingen ter bescherming van de collectieve belangen van consumenten en tot intrekking van Richtlijn 2009/22/EG (PbEU 2020, L 409)

Act of 2 November 2022 to amend Book 3 of the Civil Code and the Code of Civil Procedure in connection with the transposition of 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 (OJEU 2020, L 409) (Consumer Representative Act Implementation Act)

The amended Civil Code under the Dutch Bill provides that Qualified Entities must, pursuant to their statutes, promote the interests of natural persons (referred to in Annex I of the Directive) ‘acting for purposes unrelated to trade, business, craft or profession.’ In terms of foreign associations, their redress proceedings can be assessed by Dutch courts for their compliance with the new Dutch law. In contrast to the previous position, there are no admissibility requirements concerning the governance of the organisation bringing the claim.

The Dutch Bill concerns persons belonging to the narrowly defined group of persons whose interests are represented in a collective action, and their interests protected as per Article 2(1) of the Directive.

The Dutch Bill does not specifically define the ‘defendant’ in a class action. However, the Bill aims to ensure, generally, that injunctive and redress measures can be brought against actors breaching EU consumer laws listed in Annex I of the Directive.

Dutch nationals *opt out*, and residents of other States can *opt in* to join a collective action (an amendment to the national ‘WAMCA’ legislation). Opt-out is prohibited for the latter, who must also declare that they are not already represented in a collective/individual action in another Member State if they wish to join an action.

Article 305e of the amended Dutch law confirms that conditions to become a ‘qualified entity’ include providing details about the entity’s general sources of funding. Third party/litigation funding is permitted. However, the amendments stipulate that funding of the claim should ‘not come from a financier who is a competitor of the party against whom the legal claim is directed or from a financier who is dependent on the party against whom the legal claim is directed.’

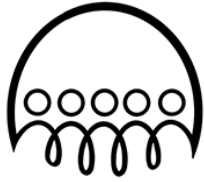
For official texts:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=NIM:202207752;>  
<https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorstel%3A36034;tsvoorstel%3A36034;>

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Founder: Maria José Azar-Baud

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OBSERVATOIRE DES ACTIONS DE GROUPE  
et autres Actions Collectives

[https://www.eerstekamer.nl/wetsvoorstel/36034\\_implementatiewet\\_richtlijn](https://www.eerstekamer.nl/wetsvoorstel/36034_implementatiewet_richtlijn);

[https://www.eerstekamer.nl/behandeling/20221123/publicatie\\_wet/document3/f=/vly9gopxg4xy.p  
df](https://www.eerstekamer.nl/behandeling/20221123/publicatie_wet/document3/f=/vly9gopxg4xy.pdf)

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