

## **Collective redress**

### **Position of The German Federal Bar**

The German Federal Bar<sup>1</sup> is following the deliberations at the Commission, the Council and the European Parliament on the introduction of instruments of collective redress with great interest.

From the legal profession's perspective, there are certain constellations which give rise to a practical need for a practicable and balanced collective redress instrument.

The individual enforcement of a large number of uniform (alleged) claims may result in blockades. Lacking court logistics may lead to an inappropriately long time being spent on valid claims as well as on the rejection of unjustified claims. Those with valid claims have to renounce a prompt compensation of their damage. The party against which unjustified claims have been brought, cannot react in the way it is normally entitled to.

On the other hand, businesses causing marginal damage to the individual claimant must not benefit from the fact that in such cases the cost of bringing an individual court action is often higher than the damage caused.

This problem needs to be solved. Collective redress instruments can help and have a pacifying effect in this matter. An overburdening of the courts can be avoided if the elements of a claim are bundled in one model/group claimant.

However, collective redress is only thinkable provided it is practicable and satisfies the legal guarantees. The potential claimants' right of information and the right to participate in the proceedings must be maintained. Collective redress must not lead to blockades in the judicial system either. Apart from paying damages, one might envisage to skim off illegitimate profits in certain cases. Introducing US-style class actions where the focus is on the economic incentive, is not a solution.

The German Federal Bar is happy to participate constructively in the elaboration of a practicable collective redress instrument that also safeguards judicial guarantees.

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<sup>1</sup>The German Federal Bar is the umbrella organisation representing the 27 regional Bars and the Bar at the Federal Court of Justice. The Bars represent a total of currently approximately 142,800 lawyers in the Federal Republic of Germany.