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► **B** DIRECTIVE 2009/22/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 April 2009

on injunctions for the protection of consumers' interests

(Codified version)

(Text with EEA relevance)

(OJ L 110, 1.5.2009, p. 30)

Amended by:

		Official Journal		
		No	page	date
► <b><u>M1</u></b>	Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013	L 165	63	18.6.2013
► <b><u>M2</u></b>	Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013	L 165	1	18.6.2013
► <b><u>M3</u></b>	Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018	L 60I	1	2.3.2018



**DIRECTIVE 2009/22/EC OF THE EUROPEAN PARLIAMENT  
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*Article 1*

**Scope**

1. The purpose of this Directive is to approximate the laws, regulations and administrative provisions of the Member States relating to actions for an injunction referred to in Article 2 aimed at the protection of the collective interests of consumers included in the ►**M2** Union acts listed in Annex I ◀, with a view to ensuring the smooth functioning of the internal market.

2. For the purposes of this Directive, an infringement means any act contrary to the ►**M2** Union acts listed in Annex I ◀ as transposed into the internal legal order of the Member States which harms the collective interests referred to in paragraph 1.

*Article 2*

**Actions for an injunction**

1. Member States shall designate the courts or administrative authorities competent to rule on proceedings commenced by qualified entities within the meaning of Article 3 seeking:

- (a) an order with all due expediency, where appropriate by way of summary procedure, requiring the cessation or prohibition of any infringement;
- (b) where appropriate, measures such as the publication of the decision, in full or in part, in such form as deemed adequate and/or the publication of a corrective statement with a view to eliminating the continuing effects of the infringement;
- (c) in so far as the legal system of the Member State concerned so permits, an order against the losing defendant for payments into the public purse or to any beneficiary designated in or under national legislation, in the event of failure to comply with the decision within a time limit specified by the courts or administrative authorities, of a fixed amount for each day's delay or any other amount provided for in national legislation, with a view to ensuring compliance with the decisions.

2. This Directive shall be without prejudice to the rules of private international law with respect to the applicable law, that is, normally, either the law of the Member State where the infringement originated or the law of the Member State where the infringement has its effects.

**▼B***Article 3***Entities qualified to bring an action**

For the purposes of this Directive, a ‘qualified entity’ means any body or organisation which, being properly constituted according to the law of a Member State, has a legitimate interest in ensuring that the provisions referred to in Article 1 are complied with, in particular:

- (a) one or more independent public bodies, specifically responsible for protecting the interests referred to in Article 1, in Member States in which such bodies exist; and/or
- (b) organisations whose purpose is to protect the interests referred to in Article 1, in accordance with the criteria laid down by the national law.

*Article 4***Intra-Community infringements**

1. Each Member State shall take the measures necessary to ensure that, in the event of an infringement originating in that Member State, any qualified entity from another Member State where the interests protected by that qualified entity are affected by the infringement, may apply to the court or administrative authority referred to in Article 2, on presentation of the list provided for in paragraph 3 of this Article. The courts or administrative authorities shall accept this list as proof of the legal capacity of the qualified entity without prejudice to their right to examine whether the purpose of the qualified entity justifies its taking action in a specific case.

2. For the purposes of intra-Community infringements, and without prejudice to the rights granted to other entities under national legislation, the Member States shall, at the request of their qualified entities, communicate to the Commission that these entities are qualified to bring an action under Article 2. The Member States shall inform the Commission of the name and purpose of these qualified entities.

3. The Commission shall draw up a list of the qualified entities referred to in paragraph 2, with the specification of their purpose. This list shall be published in the *Official Journal of the European Union*; changes to this list shall be published without delay and the updated list shall be published every six months.

*Article 5***Prior consultation**

1. Member States may introduce or maintain in force provisions whereby the party that intends to seek an injunction can only start this procedure after it has tried to achieve the cessation of the infringement in consultation either with the defendant or with both the defendant and a qualified entity within the meaning of Article 3(a) of the Member State in which the injunction is sought. It shall be for the Member State to decide whether the party seeking the injunction must consult the qualified entity. If the cessation of the infringement is not achieved within two weeks after the request for consultation is received, the party concerned may bring an action for an injunction without any further delay.

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2. The rules governing prior consultation adopted by Member States shall be notified to the Commission and shall be published in the *Official Journal of the European Union*.

*Article 6***Reports**

1. Every three years and for the first time no later than 2 July 2003 the Commission shall submit to the European Parliament and to the Council a report on the application of this Directive.

2. In its first report the Commission shall examine in particular:

- (a) the scope of this Directive in relation to the protection of the collective interests of persons exercising a commercial, industrial, craft or professional activity;
- (b) the scope of this Directive as determined by the ►**M2** Union acts listed in Annex I ◀;
- (c) whether the prior consultation provided for in Article 5 has contributed to the effective protection of consumers.

Where appropriate, this report shall be accompanied by proposals with a view to amending this Directive.

*Article 7***Provisions for wider action**

This Directive shall not prevent Member States from adopting or maintaining in force provisions designed to grant qualified entities and any other person concerned more extensive rights to bring action at national level.

*Article 8***Implementation**

Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

*Article 9***Repeal**

Directive 98/27/EC, as amended by the Directives set out in Annex II, Part A, is repealed, without prejudice to the obligations of the Member States concerning the time limits for transposition into national law and application of the Directives set out in Annex II, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.

*Article 10***Entry into force**

This Directive shall enter into force on 29 December 2009.

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*Article 11*

**Addressees**

This Directive is addressed to the Member States.



## ANNEX I

**► M2 LIST OF UNION ACTS ◀ REFERRED TO IN ARTICLE 1 <sup>(1)</sup>**

1. Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises (OJ L 372, 31.12.1985, p. 31).
2. Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit (OJ L 42, 12.2.1987, p. 48) <sup>(2)</sup>.
3. Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities: Articles 10 to 21 (OJ L 298, 17.10.1989, p. 23).
4. Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (OJ L 158, 23.6.1990, p. 59).
5. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).
6. Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (OJ L 144, 4.6.1997, p. 19).
7. Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (OJ L 171, 7.7.1999, p. 12).
8. Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects on information society services, in particular electronic commerce, in the internal market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).
9. Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use: Articles 86 to 100 (OJ L 311, 28.11.2001, p. 67).
10. Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services (OJ L 271, 9.10.2002, p. 16).
11. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market (OJ L 149, 11.6.2005, p. 22).

<sup>(1)</sup> The Directives referred to in points 5, 6, 9 and 11 contain specific provisions concerning injunctions.

<sup>(2)</sup> The said Directive was repealed and replaced, with effect from 12 May 2010, by Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers (OJ L 133, 22.5.2008, p. 66).

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12. Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).
13. Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts (OJ L 33, 3.2.2009, p. 10).

**▼ M1**

14. Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (OJ L 165, 18.6.2013, p. 63): Article 13.

**▼ M2**

15. Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes (Regulation on consumer ODR) (OJ L 165, 18.6.2013, p. 1): Article 14.

**▼ M3**

16. Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 60 I, 2.3.2018, p. 1).



*ANNEX II*

**PART A**

**Repealed Directive and its amendments**

(referred to in Article 9)

Directive 98/27/EC of the European Parliament and of the Council

(OJ L 166, 11.6.1998, p. 51).

Directive 1999/44/EC of the European Parliament and of the Council Article 10 only

(OJ L 171, 7.7.1999, p. 12).

Directive 2000/31/EC of the European Parliament and of the Council Article 18(2) only

(OJ L 178, 17.7.2000, p. 1).

Directive 2002/65/EC of the European Parliament and of the Council Article 19 only

(OJ L 271, 9.10.2002, p. 16).

Directive 2005/29/EC of the European Parliament and of the Council Article 16(1) only

(OJ L 149, 11.6.2005, p. 22).

Directive 2006/123/EC of the European Parliament and of the Council Article 42 only

(OJ L 376, 27.12.2006, p. 36).

**PART B**

**List of time limits for transposition into national law and application**

(referred to in Article 9)

Directive	Time limit for transposition	Date of application
98/27/EC	1 January 2001	—
1999/44/EC	1 January 2002	—
2000/31/EC	16 January 2002	—
2002/65/EC	9 October 2004	—
2005/29/EC	12 June 2007	12 December 2007
2006/123/EC	28 December 2009	—





## ANNEX III

## CORRELATION TABLE

Directive 98/27/EC	This Directive
Articles 1 to 5	Articles 1 to 5
Article 6(1)	Article 6(1)
Article 6(2), first subparagraph, first indent	Article 6(2), first subparagraph, point (a)
Article 6(2), first subparagraph, second indent	Article 6(2), first subparagraph, point (b)
Article 6(2), first subparagraph, third indent	Article 6(2), first subparagraph, point (c)
Article 6(2), second subparagraph	Article 6(2), second subparagraph
Article 7	Article 7
Article 8(1)	—
Article 8(2)	Article 8
—	Article 9
Article 9	Article 10
Article 10	Article 11
Annex	Annex I
—	Annex II
—	Annex III