

Protection of consumers: injunctions for the protection of consumers' interests

1996/0025(COD) - 30/10/1997 - Council position

The common position largely takes over the Commission's amended proposal and hence Parliament's amendments accepted by the Commission. The most important point of divergence between the amended proposal and the common position concerns the scope of the proposed Directive, to the extent that the reference to companies' interests has been deleted; instead the common position focuses exclusively on protecting the collective interests of consumers. The Council has made provision for the collective interests of persons exercising a commercial, industrial, craft or professional activity to be re-examined no later than five years after the entry into force of the Directive. A further difference which should be mentioned is that the common position has not specifically taken into account the possibility for European organizations and/or federations to act as qualified entities. The common position also stipulates the scope of intra-Community infringements: a simplification has been introduced by deleting the initially proposed text concerning the document certifying the right of a qualified entity to bring proceedings before competent courts or authorities. According to the common position, it is sufficient for the Commission, once the Member States have informed it of the name and purpose of their national qualified entities, to draw up a list of such entities, which will be published in the Official Journal. The courts and administrative bodies must 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. Another point to note is that the question of the law applicable is covered with reference to private international law. The applicable law should therefore normally be either the law of the Member State where the infringement originated or the law of the Member State where it has its effects. Finally, the Council would like the Directive to be implemented within a period of 30 months.