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**'I/A' ITEM NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
on representative actions for the protection of the collective interests of  
consumers, and repealing Directive 2009/22/EC  
- Statement by Estonia

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**– Statement by Estonia –**

Estonia welcomes the aim of the Directive on representative actions for the protection of the collective interests of consumers to strengthen the mechanism for protection of collective interests of consumers in an increasingly globalised and digitalised marketplace.

Estonia, however, regrets that this sector specific Directive undermines Member States' civil procedural law and autonomy by introducing several rules that are horizontal in nature and exist already in all Member States. Such rules are, for example, the loser pays principle, *res judicata*, *lis pendens*, dismissal of an action. In our view, the procedural autonomy is of great value and should be respected when creating civil procedural law instruments.

Estonia is one of the Member States who supported the view that a Union procedure should cover cross-border situations, enabling the Member States to set up national systems themselves. We still believe that this would have been the proper approach. Union rules should be introduced only in situations where Member States cannot solve the problem on their own. In our view, the creation of a national system for representative actions is not such an issue.

Rules for funding of national qualified entities and its examination should be in the competence of a Member State. Unfortunately, the rules for funding in the final text are of horizontal nature. To this end, we would have preferred the General Approach, which concerned only the funding of cross-border qualified entities.

We are very concerned about the fact that the wording of Article 7 (1) does not distinguish between domestic and cross-border actions. Therefore, Estonia sees that the text does not preclude an interpretation according to which the forum Member State's national rules may make it impossible for a qualified entity of another Member State funded by a third party to file an action based only on the fact of a third party funding without even assessing the possible extent of the influence by funders. This is a result we cannot agree to. Such restriction is not in line with the objectives of the Directive and would make it unreasonably difficult and financially burdensome for small Member States to find cross-border qualified entities other than public bodies.

Estonia is of the view that determining the scope of a consumer law directive through a list of 68 instruments, including both directives and regulations, is unclear and overwhelmingly difficult to apply in practice. For example, we struggle to understand how to determine the scope in case of a minimum harmonising directive that has been transposed into national law where national rules go further than the ones in the Directive.

Furthermore, we are disappointed that the time for transposition and application of the Directive have been shortened substantially in comparison with the General Approach. The periods are not sufficient for a small Member State, such as Estonia, who does not have a system for representative actions in place, to set up this complex system.

Consequently, and again stressing its support to the aim of consumer protection, Estonia will abstain from voting on this Directive.

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