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## **Collective Redress Directive: MEPs of the JURI Committee called upon to ensure availability of collective redress to members of the public harmed by breaches of EU law**

The Dieselgate scandal has once again laid bare the hurdles and barriers that Europeans face when they seek to obtain remedies for mass harm caused by companies. The Commission's Proposal for a Collective Redress Directive is therefore a welcome and timely initiative. However by only giving rights to consumers to challenge the infringement of a number of EU Consumer Directives, the Proposal does not respond to previous calls for legislation to mandate horizontal collective redress by the European Parliament in 2012 and European Economic and Social Committee in 2013, the 2013 Commission Recommendation on collective redress and the 2018 Study requested by the JURI Committee.

The current Proposal thereby misconstrues the nature of common mass harm situations affecting Europeans. Breaches of EU environmental regulations can cause harm to the health and property of many European citizens, as has already been the case due to industrial pollution and gas drilling. Similarly, if chemicals that have not been authorized by the EU are used, everyone whose health is impacted should be able to rely on the Directive to seek redress. Moreover, where a coal plant violates EU industrial emissions laws polluting the air with toxic ash and rivers with mercury, local residents/citizens would also not be empowered to claim compensation based on the current Directive either. The same can be said about violations of EU labour and anti-discrimination laws.

Not only persons that bought a specific product but also other persons whose health has been impacted should be able to address the courts. This does not only concern the exclusion of non-consumers but also unequal treatment between consumers: A consumer whose flight has been cancelled would now perhaps be able to obtain compensation, while a person who has purchased a product containing unauthorized chemicals would not. These issues are not easily fixed by simple additions. By creating a closed list of covered acts in the Annex, it will be in practice impossible to be exhaustive - not only because of the large amount of EU legal acts giving rights to EU consumers, but also because of the constant evolution of EU law. An Annex would therefore require constant amendments and revisions.

The 2018 Study requested by the JURI Committee supports these conclusions, stating specifically: "it would be wise not to circumscribe collective redress to the protection of the collective interests of consumers, but to expand it to cover the collective interests of persons (i.e., including fundamental rights), including both natural and legal persons." Horizontal collective redress has also been recommended or called for by the EU Fundamental Rights Agency, the Council of Europe, the UN High Commissioner for Human Rights and a broad coalition of European civil society organisations. At a time where the European Parliament has highlighted the need to improve enforcement of EU environmental law and the resulting

possibility to save EUR 50 billion in costs, the Proposal instead fails to mobilize collective redress as a tool to ensure the consistent application of EU law.

We would like to emphasise that based on the most comprehensive study of collective redress mechanisms in the EU to date, not a single instance of "abusive litigation" has occurred in any EU jurisdiction as a consequence of collective redress. EU judicial systems and the current Proposal contain sufficient safeguards to prevent the forms of abuse known to the North American system. Rather than believing the abusive litigation scare, the focus must be on enabling EU citizens to obtain redress when they have been harmed by breaches of EU law through reckless business behaviour. Such mechanisms have the power to once again generate trust and confidence in the EU project.

For the reasons above, we call on MEPs in the JURI Committee to support the Proposal and table amendments which:

**1. Broaden the scope of the proposed Directive to cover not only situations of harm to consumers but also situations where other EU citizens are harmed by infringements of EU environmental and labour law.** Specifically, move away from the Annex-approach and instead extend the application of the Directive to cases of harm to two or more natural persons arising from the infringement of EU environmental, consumer and labour law.

**2. Specifically mention also other NGOs and not only consumer organizations as eligible for the status of qualified entity.** Together with the expansion of the scope of the Proposal to cover also non-consumers, organizations representing environmental, worker and other public interests should be able to bring representative actions.