

# **The Implementation of the Representative Action Directive (EU 2020/1828) in Germany**

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Although this is a late application, I would like to thank you again for allowing me to participate in this conference as one of the disputants. It is a great honor to be able to participate in Prof. Stadler's profound lecture, and her systematic explanation gave me a better understanding of the EU's Representative Action Directive (RAD) and the new German Consumer Rights Enforcement Act (CREA). No one can argue that representative actions are an attractive way to resolve modern disputes, let alone prevent abuses. South Korea has had very limited methods of collective redress since 2005, allowing class actions only in securities-related cases, and allowing injunction claims in the form of representative actions only in the areas of personal information privacy and consumer protection. For example, the current legislation of consumer representative actions in Korea (Framework Act on Consumers) grants certain qualified organizations the right to bring actions limited to injunction claims, but requires plaintiffs to appoint an attorney as their litigator and obtain court approval to bring the action. A judgment in favor of the plaintiff in an injunction action will order immediate measures to stop the infringement of consumer rights, such as stopping the business operator's misconduct and/or stopping the sale of the product, but the injunction is not legally binding on individual consumers, although they may use the contents of the judgment as a basis for claiming damages. Therefore, we believe that the guidelines of RAD and CREA will be very important standards for South Korea to consider and improve the more appropriate systems and operations of collective redress in the future.

Meanwhile, the practical application of RAD in Germany shows that a lot of thought

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has been put into it, and it is understood that the current system still carries the risk of additional disputes or fears that may lead to underutilization. While Germany's CREA is certainly a step forward from the past, its significance as a system will still be greatly diminished if it is not used in practice, so it is expected that Germany will try to improve it in some way in the future. With regard to the shortcomings that Prof. Dr. Stadler has raised, such as the problem of late consumer opt-in, which may increase the burden on the judiciary, the problem that the process of distribution to actual victims is prone to disputes in successful cases where the defendant pays the entire amount of damages, and the problem of overly restrictive conditions for third-party funding as a method of financing collective redress, I think it would be very helpful if you could be a little more specific about your ideas for the alternatives to each of these problems as we consider improving the Korean system.