

Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (Text with EEA relevance)

CHAPTER IV

THE PASSING-ON OF OVERCHARGES

Article 12

Passing-on of overcharges and the right to full compensation

1 To ensure the full effectiveness of the right to full compensation as laid down in Article 3, Member States shall ensure that, in accordance with the rules laid down in this Chapter, compensation of harm can be claimed by anyone who suffered it, irrespective of whether they are direct or indirect purchasers from an infringer, and that compensation of harm exceeding that caused by the infringement of competition law to the claimant, as well as the absence of liability of the infringer, are avoided.

2 In order to avoid overcompensation, Member States shall lay down procedural rules appropriate to ensure that compensation for actual loss at any level of the supply chain does not exceed the overcharge harm suffered at that level.

3 This Chapter shall be without prejudice to the right of an injured party to claim and obtain compensation for loss of profits due to a full or partial passing-on of the overcharge.

4 Member States shall ensure that the rules laid down in this Chapter apply accordingly where the infringement of competition law relates to a supply to the infringer.

5 Member States shall ensure that the national courts have the power to estimate, in accordance with national procedures, the share of any overcharge that was passed on.