



Houthoff Class Action Survey: France

The Houthoff Class Action Survey 2024 provides an eye-opening journey into the future of class actions. It includes around 40 interviews with thought leaders from 12 different countries, preceded by an overview of the current class action regime in each jurisdiction. This is the overview for France.

In France, there are three main categories of collective actions: class actions (*actions de groupe*), actions by representative bodies (*actions en représentation conjointe*) and actions in the collective interest of consumers (*actions dans l'intérêt collectif des consommateurs*). *Actions de groupe* most resemble class actions, because the proceedings are brought on behalf of an unnamed group of claimants (although they must opt in).

Actions de groupe were introduced by the Consumer Protection Code (*Loi Hamon*), which came into force on 1 October 2014. This law allowed accredited consumer associations to start class actions against a professional party for consumer and competition law breaches. The claimants could seek pecuniary damages or an end to the breach. In 2016, the scope was extended to health, the environment, personal data protection, and discrimination in the field of labour law. The procedural rules are laid down in different codes that relate to these specific areas of law. A common framework was also introduced in 2016, but the scope of class actions could only be extended by a special law. Class actions can be initiated by accredited organisations based on at least two individual and similar cases. It is possible to seek injunctive relief, annul a provision in the general terms and conditions and claim damages. The proceedings are divided into three phases: first, the admissibility of the action is assessed. Second, the court decides on the liability of the defendant, and third, the court determines the amount of damages and their allocation to consumers. Punitive damages cannot be awarded. Consumers can receive damages by opting in after the final judgment has been made public. There are two different ways to proceed. Consumers can ask the company directly for damages or they can go through an accredited association.

Actions en représentation conjointe were introduced in 1992 to deal with disputes involving larger numbers of claimants who were in similar situations and had suffered from the same misconduct by a professional party. Initially, they were only an option for consumer protection, but the scope was extended to other sectors including the medical sector, financial services and investor protection, real estate and the environment. These proceedings can only be initiated by accredited associations. The action has a limited scope. Claimants can seek injunctive relief to put an end to an unlawful breach that causes damage, annul a provision in the general terms and conditions and claim damages. It is based on an opt-in system: each claimant must give a written mandate to the representative body to begin the action.

Actions dans l'intérêt collectif des consommateurs were introduced in 1973. Certified consumer associations can initiate actions for the benefit of all consumers. In this case, the damages are allocated to the consumer association to compensate damage to the collective interest of consumers.

The regulatory framework applicable to *actions de groupe* in France is about to be modified significantly with the implementation of the Representative Actions Directive (RAD). On 8 March 2023, the *Assemblée Nationale* (lower house of the Parliament) adopted a very ambitious bill with major changes to the current regime, including the transposition of the RAD. On 6 February 2024, the *Sénat* (upper house of the Parliament) adopted a much more restricted text than the one passed by the *Assemblée Nationale*. Considering the significant disagreements between the two chambers of the French Parliament and the dissolution of the *Assemblée Nationale* on 9 June 2024, the new regime is unlikely to enter into force in the near future. Thus, clarity is lacking regarding the content of the final draft and the date of implementation.

Class actions | *Actions de groupe* (RAD not yet transposed)

Scope	Consumer protection; competition damages; labour discrimination; environmental issues; medical and cosmetic products; data protection.
Access granted to	Accredited organisations.
Opt-in or opt-out	Opt-in.
Declaratory relief or damages	Damages.
Frequently used	No.
Regulatory framework	Specific codes e.g. Consumer Protection Code (L n°2014-344/17), Environmental Code, Labour Code, Public Health Code (L n°2016-41/27), Public Justice Code (L n°2016-1547/18), Law n°78-17 on Information Technology, Data Files and Individual Liberties.
Alternatives used in practice	<i>Actions en représentation conjointe</i> (L n°92-60/18), <i>actions dans l'intérêt collectif des consommateurs</i> (L n°73-1193/27); digital platforms to bundle claims.

Class settlements

Binding class members after court approval	Yes, in class actions, often through mediation.
Opt-in or opt-out	Opt-in.

Third party funding

Regulated by law	No.
Frequently used	No.

Good to know

- To date, 37 class actions have been lodged in around 10 years. Only one has resulted in a judgment holding the defendant liable.
- Litigating by mandate, or via the assignment of claims, raises serious concerns from a French procedural point of view.

In October we organise an interactive seminar where the main results of this research will be presented.

[Read more](#) on our website about this event and [pre-order the Houthoff Class Action Survey 2024](#).

CONTACT

If you have any questions about class actions or the survey, please feel free to contact Albert Knigge or Isabella Wijnberg.



ALBERT KNIGGE
ADVOCAT | PARTNER
T +31 20 605 65 62
M +31 6 5184 5323
a.knigge@houthoff.com



ISABELLA WIJNBERG
ADVOCAT | ADVISER
T +31 20 605 65 09
M +31 6 5316 8462
i.wijnberg@houthoff.com