



Houthoff Class Action Survey: Italy

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 Italy.

In Italy, class actions (*azione di classe*) were introduced in 2008 as part of the Consumer Code. This regime was reformed by Law No 31/2019 that came into force on 19 May 2021. This law introduced Title VIII-*bis* of the Code of Civil Procedure (*procedimenti collettivi*), repealing the class actions provisions in the Consumer Code. Class actions can be brought by associations, non-profit organisations or each class member in the interests of all persons with homogeneous rights. These actions can address a wide range of contractual and tort claims and are typically directed against companies and public service providers. There is ongoing discussion about whether these actions can also involve professionals. The specialised business division of the court where the defendant is located (*tribunale delle imprese*) has exclusive jurisdiction.

Class action proceedings will be held according to Articles 702-*bis et seq.* and Articles 840-*bis* to 840-*sexiesdecies* of the Code of Civil Procedure. After the court decides on the admissibility of the case, it will be published on a web portal. Following this publication, all related proceedings must be commenced within 60 days. Proceedings that are brought against the same defendant and based on the same facts will be consolidated with the first proceedings. The court then decides on the merits, defines the characteristics of the relevant homogeneous individual rights and appoints a delegate judge and a class representative. The compensation for the class members is settled by the delegate judge. Beneficiaries can opt-in within a period of 60 to 150 days set by the court from (i) the admissibility ruling and (ii) the final judgment on the merits.

The Representative Directions Directive (RAD) has been implemented by Legislative Decree No 28/2023, that came into force on 25 June 2023. This Decree introduced the 'representative action' in Articles 140-*ter* to 140-*quaterdecies* of the Consumer Code, which is a mechanism separate from class actions. The claims can be for injunctive relief or compensation, in the interests of consumers. Only qualified entities can bring a representative action. Qualified entities are nationally recognised consumer and user associations that are listed by the Ministry of Enterprises and Made in Italy and certain independent public bodies. The scope of defendants is broader than in class actions and includes all natural and legal persons involved in business activities as defined in the RAD. The court of the district in which the defendant is seated has jurisdiction. Consumers can opt in in the same way as for class actions.

Qualified entities for representative actions cannot file class actions under Law No 31/2019. However, there is a risk of parallel proceedings as individual class members can still initiate class actions on topics for which representative actions are available.

Class actions | *Azione di classe* | Representative action

Scope	<i>Azione di classe</i> : wide range of contractual and tort claims. Representative action: consumer law.
Access granted to	<i>Azione di classe</i> : each class member, associations or non-profit organisations registered on a public list. Representative action: qualified entities.
Opt-in or opt-out	<i>Azione di classe</i> and representative action: opt-in (two opt-in moments).
Declaratory relief or damages	<i>Azione di classe</i> : both. Representative action: damages.
Frequently used	<i>Azione di classe</i> and representative action: no, but more frequent use is expected.
Regulatory framework	<i>Azione di classe</i> : Articles 702- <i>bis</i> et seq. and Articles 840- <i>bis</i> to 840- <i>sexiesdecies</i> Code of Civil Procedure. Representative action: Articles 140- <i>ter</i> to 140- <i>quaterdecies</i> Consumer Code.

Class settlements

Binding class members after court approval	<i>Azione di classe</i> : yes. Representative action: yes.
Opt-in or opt-out	<i>Azione di classe</i> : Opt-in after settlement proposal made by the court, opt-out after settlement on the parties' initiative. Representative action: opt-in.

Third party funding

Regulated by law	<i>Azione di classe</i> : no. Representative action: according to RAD.
Frequently used	No.

Good to know

The 'Italian torpedo' is not possible in class actions. Class actions are governed by the rules on summary proceedings, and the court is given specific time frames to speed up the proceedings.

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

[Read more](#) about this event on our website 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.



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