



## Houthoff Class Action Survey: Poland

**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 Poland.**

Since 2010, Poland has had a class action mechanism called ‘group proceedings’. These proceedings can be initiated by a group representative on behalf of a group of at least ten natural or legal persons that are not parties to the proceedings. The representative can be a group member, the District Consumer Ombudsman or, in certain cases, the Financial Ombudsman. In these proceedings, the group representative can seek declaratory and injunctive relief, the establishment of a legal relationship or right (constitutive judgment) and damages. In the latter case, only a standardised amount of money can be claimed for the whole group or for subgroups of at least two persons. The claims will therefore be adjusted to the lowest amount claimed. Moreover, the court can limit a claim for damages to declaratory relief. When awarding damages, the court will define the exact amount to be paid to each group member. Each member may bring enforcement proceedings for damages against the defendant.

Group proceedings can be brought on the grounds of liability for damage caused by hazardous products, for tortious and contractual liability, unjust enrichment, and consumer protection. In principle, claims based on the violation of personal rights cannot be brought in group proceedings unless they include bodily injury and health disorder, in which case declaratory relief can be sought to establish the defendant’s liability.

Group proceedings have a certification phase after which a positive decision on the admissibility of the claims is published, in order to provide an opt-in possibility for persons who did not join the action at an earlier stage to do so within a period set by the court of a maximum of three months. The admissibility requirements include the homogeneity of the group members’ claims (e.g. all claims for damages, or all claims for declaratory relief), the type of claim (statute provides for a catalogue of claims which can be pursued in a class action), a common factual basis for the claims, and a minimum group size of at least ten natural or legal persons.

The Representative Actions Directive (RAD) is set to significantly change the existing group proceedings, but it has not yet been implemented in Polish law. The President of the Office of Competition and Consumer Protection submitted a legislative proposal which was subsequently adopted by the Council of Ministers and presented to the legislative body in June 2024. The proposal provides for an opt-in class action mechanism to protect consumers from infringements of consumer law by traders. It envisages that qualified entities in domestic actions will be registered consumer organisations. Under the proposal, claims must be of the same type and based on the same or similar factual or legal basis. No minimum size of consumer group is required. Third party litigation funding will be permitted. If the court has reasonable doubt as to whether the funding adversely affects the interests of consumers in the proceedings, the qualified entity may be ordered to disclose the source of its funding and take appropriate action under penalty of change of the qualified entity or dismissal of the claim. The ‘loser pays’ principle applies, but the qualified entity will be exempted from paying the court fees and other costs of the proceedings, which are to be temporarily borne by the State Treasury.

## Class actions | Group proceedings (RAD not yet transposed)

Scope	Liability for damage caused by hazardous products, for tortious and contractual liability, unjust enrichment and consumer protection.
Access granted to	Registered consumer organisations.
Opt-in or opt-out	Opt-in, no formal possibility to opt-out.
Declaratory relief or damages	Both.
Frequently used	No.
Regulatory framework	Act of 17 December 2009 on Pursuing Claims in Group Proceedings (Journal of Laws of 2010, No. 7, item 44), entry into force 19 July 2010, amended in 2017, 2019, 2022 and 2023.
Alternatives used in practice	Joined actions of multiple claimants; assignment of claims.

## Class settlements

Binding class members after court approval	General rules on the settlement of civil claims apply; the settlement can be concluded with the consent of at least 50% of the class members; the court examines whether the settlement grossly violates the rights of class members.
Opt-in or opt-out	Idem.

## Third party funding

Regulated by law	No.
Frequently used	No.

## Good to know

For class actions, a financial incentive is provided which decreases the filing fee to 50% of the fee amount.

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.



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