



Houthoff Class Action Survey: Spain

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 Spain.

Current Spanish class actions (*Acciones colectivas*) are regulated in different laws that are somewhat fragmented. The Code of Civil Procedure provides rules for some of the main procedural matters. Laws setting out special rules include the Consumer Protection Act (*Ley de Consumidores y Usuarios*), the Act on General Terms and Contractual Conditions (*Ley de Condiciones Generales de la Contratación*) and the Unfair Competition Act (*Ley de Competencia Desleal*). Registered consumer organisations can initiate class actions in the interests of consumers that have been affected by the same damaging conduct of companies or natural persons acting as traders. After being notified of the upcoming class action by the claimant, consumers can opt in to the proceedings. Claims can be for injunctive and declaratory relief and damages, depending on the type of action brought by the claimant. Class settlements are rare and not regulated.

The Representative Actions Directive (RAD) has not yet been transposed in Spain, but the government approved a preliminary draft of the implementation bill on 20 December 2022 (published on 9 January 2023), which is still pending in parliament. This bill will introduce a new title with Articles 828 to 885 in Book IV of the Civil Procedural Law and creates a coherent system of representative actions (*Acciones de representación*) for injunctive and redress measures, including declaratory relief. The procedure for redress measures entails strict timelines for each phase, among which a mandatory certification phase before proceeding to the merits phase. Consumers do not have to join the action if injunctive relief is claimed. They can join on an opt-out basis in the case of redress actions, or – by way of exception – on an opt-in basis if the court has so ordered for the sound administration of justice and when the claim for each consumer exceeds EUR 5,000. The opt-in mechanism – in accordance with the RAD – also applies to consumers who are domiciled outside Spain. Domestic representative actions can be brought by registered associations, the Public Prosecutor, the Directorate for Consumer Affairs, and regional and local consumer protection bodies. Qualified entities must fulfil the same standing requirements for domestic actions as for cross-border actions.

The draft bill also includes a section on court-approved class settlements. Redress settlements reached after class certification bind the parties and the class. Applications for court approval of settlements reached before certification must specify the group of consumers affected by the settlement in question (individually or by setting out the characteristics of the group). The court will reject a settlement when the amount of return to be paid to any funder is considered detrimental to consumers' rights and interests.

Third party litigation funding is accepted under the draft bill. The qualified entity must disclose all sources of financing and submit the funding agreement if ordered to do so by the court. In the certification phase, the court will check that the funder's interests do not prejudice the consumers' interests and rights. A hearing can be held that the parties and the funder must attend. The funder is allowed a share of the total damages awarded, but the court may cap this.

Class actions | *Acciones colectivas* (RAD not yet transposed)

Scope	Consumer law. The rare damages actions only relate to contractual relations.
Access granted to	Registered consumer organisations.
Opt-in or opt-out	Opt-in.
Declaratory relief or damages	Both.
Frequently used	No.
Regulatory framework	Code of Civil Procedure, the Consumer Protection Act, the Act on General Terms and Contractual Conditions and the Unfair Competition Act.
Alternatives used in practice	Joined actions of multiple claimants; litigating by mandate; assignment of claims.

Class settlements

Binding class members after court approval	No, class settlements are not regulated; only general rules on settlement of civil claims apply.
Opt-in or opt-out	Idem.

Third party funding

Regulated by law	No.
Frequently used	No.

Good to know

Although not qualifying as class actions, mass litigation has increased substantially in Spain in recent years.

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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