



*Slovenian implementation of the Representative Actions Directive*

**Title:** Act Amending the Collective Actions Act (ZKolt-A) (Official Gazette of the RS, No 133/23)

The final implementing text was adopted on 14 December 2023, published shortly after, and entered into force on 26 January 2024. Actions not concluded before the entry into force continued to be governed by provisions of the Act on Collective Actions.

To determine ‘representativeness’ of the group, the court considers whether an entity will be an adequate representative of the group and acts fairly and reasonably and in the best interests of the members of the group, considering its independence, the financial means of representing the group, its media presence and the relevant activities it has carried out, the among other points. The State Attorney’s Office of the Republic of Slovenia is eligible to bring claims.

To be eligible, the claimant must show that the claims concern the same, similar or connected factual or legal issues (commonality) and that it is suitable to be determined collectively. The supplemented national mechanism specifies a wide scope covering fields such as consumer and consumer protection contracts, the prohibition of restrictive practices, the violation of trading rules on organised markets, employee claims, environment and discrimination.

Whether the ‘opt-in’ or ‘opt-out’ procedure is used depends on the nature of the class action and is determined by the court when the class action is assessed for approval. But opt-in is mandatory for those without permanent residence or if one or more claim in the action is for payment of compensation (non-pecuniary damage) or at least 10% of the group members request over 2,000 euros each. Injunctive actions do not use either mechanism, as the final judgment is what causes the injunction to take effect.

The collective claim must provide Information on the costs of the proceedings and any third-party funding (“TPF”) of the litigation. The Act defines TPF as when ‘the third party provides the claimant with funding for part or all of the costs of the proceedings in return for an agreed premium in the event of success with the claim, usually determined as a proportion of the amount to be awarded by the court or as a proportion of the amount agreed in a settlement reached in the proceedings.’ The premium agreed must meet a requirement of reasonableness and the funder cannot have a decisive influence over procedural decisions. The claimant’s lawyer may also be remunerated for the collective action, but not more than 15% of the amount awarded by the court.

When an out-of-court mechanism is used to resolve disputes in a collective settlement, the decision on this is final and enforceable. Where proceedings are pending before the competition authority a collective action is only admissible after the proceedings have been finally concluded.

Finally, we note that exemplary (or punitive) damages are not provided for, following the aim of the Directive.

For official texts: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=NIM:202400266>;  
<http://www.pisrs.si/Pis.web/pregledPredpisa?sop=2023-01-4097>; <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2023-01-4097?sop=2023-01-4097>

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