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CHAMBERS GLOBAL PRACTICE GUIDES

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# Collective Redress & Class Actions 2025

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**Poland: Law and Practice  
& Trends and Developments**

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# POLAND



## Law and Practice

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**Sowisko Topolewski Kancelaria Adwokatów i Radców Prawnych S.K.A.** is a leading full-service Polish law firm with nearly 30 years of experience and litigation as its core. Having its offices in Warsaw, Poznań and Berlin, with a team of 100+ legal and tax professionals, the firm provides nationwide advice and supports clients in all areas of law, often with multidisciplinary teams. Sowisko Topolewski provides legal support to an extensive client base, including large corporates, micro-, small and medium-sized entrepreneurs, public institutions, healthcare provid-

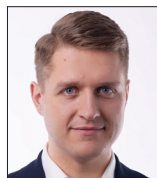
ers, local government units, universities, state-owned enterprises and consumers. The firm supports clients across a wide range of sectors, inter alia life sciences, real estate, finance, education, construction, infrastructure, energy, industry, professional and public services. A dedicated litigation team composed of 11 partners and over 20 associates handles complex cross-border disputes involving civil, commercial, corporate, criminal, labour, public procurement, tax and administrative matters, including mass claims and multi-party actions.

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## 1. Policy Development of Collective Redress/Class Action Mechanisms

### 1.1 History and Policy Drivers of the Legislative Regime

Although the Polish legal system is based on the principle of individual protection of subjective rights, it recognises the possibility of more than one entity appearing on one side of a case, as well as the joint examination of individual cases that are related to each other. A special procedure for pursuing claims by multiple persons is class action, which was only introduced by the Act of 17 December 2009 on pursuing claims in class action proceedings (*Journal of Laws of 2010*, No 7, item 44; the Group Proceedings Act, or GPA).

Class actions have not been incorporated into the Polish Code of Civil Procedure (CCP), but are instead covered by a separate act due to the lack of tradition for such regulation in the Polish legal system.

The introduction of class actions into the Polish legal system was influenced by global trends and the fact that they were also developing dynamically in Europe. The existing model of individual protection of subjective rights proved to be unsuited to new economic and social phenomena. As a solution beneficial to both creditors and the justice system, class actions were intended to facilitate access to the courts for persons discouraged from taking this step due to the low value of their claims and the fact that they were facing entrepreneurs with resources enabling them to conduct often time-consuming and costly defences.

### 1.2 Basis for the Legislative Regime, Including Analogous International Laws

Work on the GPA was carried out by the Civil Law Codification Commission and included, among other things, comparative studies. Models of group proceedings vary significantly across European countries, incorporating to a greater or lesser extent the model American class actions, which also vary across US states.

Ultimately, the adopted solutions were not based on any one specific foreign (EU or US) legal system. The Polish legislator assumed that it would be appropri-

ate to introduce solutions tailored to the Polish legal culture. At the same time, new solutions not found in the CCP were introduced, which certainly contributed to their criticism and initial difficulties in practical application. Unlike ordinary proceedings, class actions involve several stages. They include examining the admissibility of the class action, determining the composition of the group and, finally, the examination proceedings, during which the merits of the claims are assessed.

The Polish solutions are based on the assumption that class actions cover the claims of those persons who clearly express such a will – the so-called opt-in. The person concerned joins the group by submitting an appropriate statement. This distinguishes the Polish model of class action from the US model, which is based on an opt-out model, where a representative brings proceedings on behalf of and for the benefit of unidentified and unnamed members of the group, and withdrawal from the proceedings requires a clear statement therefrom.

Detailed solutions, taking into account changes introduced as a result of the implementation of Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (the “Representative Actions Directive”, or RAD), are described in the following.

### 1.3 Implementation of the EU Collective Redress Regime

The RAD has been fully implemented into Polish law by the Act of 24 of July 2024 amending the Act on pursuing claims in group proceedings and certain other acts of law (*Journal of Laws of 2024*, item 1237). Thus, the existing GPA regulation has been retained, supplemented by provisions regulating representative actions brought on behalf of consumers. The amendment entered into force on 29 August 2024.

#### Current Legal Situation

To date, the model of consumer protection against the violation of consumers’ collective interests has been based on the Protection of Competition and Consumers Act, which was implemented by Directive 2009/22/



EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests.

With the implementation of the RAD, the President of the Office of Competition and Consumer Protection (the "President of the Office") retained the power to conduct separate proceedings in cases involving practices that infringe the collective interests of consumers. These proceedings are initiated ex officio by the President of the Office, and the decision is made in the form of an administrative decision and may be subject to review by common courts. The decision may contain an element ensuring its effectiveness, such as an obligation for an entrepreneur to submit a statement with the content and in the form specified in the decision, an order to publish the decision at the entrepreneur's expense or the imposition of a financial penalty on the entrepreneur. However, in these proceedings, which are of a public law nature, it is not possible to pursue claims for damages (remedial) related to the entrepreneur's use of harmful practices.

In addition to the existing powers of the President of the Office, a parallel judicial system has been created, in which both collective orders to cease practices that violate the general interests of consumers and remedial measures will be pursued.

### Specific Solutions Adopted in National Law

Among the differences from the RAD, it is worth mentioning the power of the President of the Office to join the proceedings at any stage if this is necessary to ensure consumer protection. The legislator has also provided for the maintenance of a national register of entities authorised to bring a claim, in addition to the list drawn up by the European Commission. Another difference is the requirement to serve a mandatory pre-trial request on the entrepreneur, calling on him or her to cease practices that infringe the general interests of consumers within 14 days of the date of delivery of the request.

Additional formal requirements for the lawsuit have also been provided for, including the attachment of statements from group members joining the group and an agreement between the authorised entity and the representative specifying the representative's

remuneration – and in the case of financing of the authorised entity by another entity, an agreement with the financing entity. The court is authorised to determine, at any stage of the proceedings, whether the financing of the authorised entity by another entity has any impact on the proper protection of consumer interests.

National solutions also provide for the dismissal of a lawsuit if, prior to the filing of a class action lawsuit, the President of the Office issued a decision to initiate proceedings concerning practices infringing the collective interests of consumers or proceedings to declare the provisions of a model form of a contract unlawful.

## 2. Legal Framework

### 2.1 Collective Redress and Class Action Legislation

The basic legal act regulating matters related to redress and class actions is the GPA. This Act entered into force on 19 July 2010, six months after its announcement on 18 January 2010.

In addition, in matters not regulated by the GPA, the provisions of the CCP apply accordingly, with the exception of provisions concerning the participation of non-governmental organisations in proceedings, state-funded legal aid, selected provisions concerning the transformation of parties to the dispute, counterclaims, referral of a case to a district court at the request of the defendant, certain rules on the exchange of pleadings between the parties and separate proceedings.

The provisions of the Act of 28 July 2005 on Court Costs in Civil Cases (*Journal of Laws of 2005*, item 1228; the "Court Costs Act") shall apply to the costs of proceedings, with the exception of provisions concerning the exemption from court costs.

### 2.2 Scope of Areas of Law to Which the Legislation Applies

The GPA applies to claims relating to:

- responsibility for damage caused by a hazardous product;
- torts;
- responsibility for non-performance or improper performance of a contractual obligation;
- unjust enrichment; and
- other consumer protection matters, including claims for the use of practices that violate the general interests of consumers or claims related to their use.

Class actions do not include claims for the protection of personal rights, except for claims resulting from bodily injury or health impairment, including claims by the closest family members of an injured party who died as a result of bodily injury or health impairment.

## 2.3 Definition of Collective Redress/Class Actions

Polish law does not contain a separate statutory definition of collective redress or class action. The admissibility and rules for pursuing claims in group proceedings are regulated in the GPA, referred to in **2.1 Collective Redress and Class Action Legislation**. The GPA contains a general definition of group proceedings, which are civil proceedings in cases where claims of the same type are pursued by at least ten persons, based on the same or similar factual grounds. An exception applies to cases concerning the determination of practices infringing the general interests of consumers or claims related to their application, in which claims may also have the same legal basis. Furthermore, actions brought in cases concerning the determination of practices infringing the general interests of consumers are not subject to the requirement to form a group – ie, to bring claims by at least ten persons.

## 3. Procedure for Bringing Collective Redress/Class Actions

### 3.1 Mechanisms for Bringing Collective Redress/Class Actions

#### Jurisdiction

Class actions fall within the jurisdiction of the district court. The court hears the case with a panel of three professional judges.

#### Bringing an Action

An action in group proceedings shall be brought before the court by the representative of the group, and in cases concerning the determination of practices infringing the general interests of consumers or concerning claims related to their application, only by an authorised entity – ie, an entity entered in the register kept by the President of the Office and in the list of authorised entities kept by the European Commission, pursuant to Article 5 (1) of the RAD.

The representative of the group may be a member thereof or a district (municipal) consumer ombudsman, within the scope of their powers. The representative in certain categories of claims against financial market entities or financial institutions, as specified in the GPA, may be the Financial Ombudsman. Both the group representative and the authorised entity conduct proceedings in his or her own name but on behalf of all members of the group.

If the effects of practices infringing the general interests of consumers may occur in different EU member states, an action in a group proceeding in cases concerning the determination of practices infringing the general interests of consumers, or concerning claims related to their application, may be brought by authorised entities from those EU member states included in the list of authorised entities maintained by the European Commission, pursuant to Article 5 (1) of the RAD.

#### Mandatory Legal Representation

In collective proceedings, the claimant must be represented by a solicitor or barrister, unless the claimant is one themselves, with the exception of cases where the claimant is the Financial Ombudsman.

### 3.2 Overview of Procedure

#### Bringing Class Actions

As a rule, bringing a class action in Poland does not require any other proceedings to be brought beforehand, nor is it conditional on specific legal or actual steps being taken before it is initiated.

The only exception is class actions in cases concerning the determination of practices that violate the general interests of consumers. In such cases, the authorised entity is required to serve a request on the

entrepreneur calling on him or her to cease such practices within 14 days of the date of delivery of the call before bringing the action. The request or other letter from the authorised entity addressed to the entrepreneur before bringing the action may not include any other demands or claims, including in particular the transfer of funds to the authorised entity or to another entity.

Only if the entrepreneur has not ceased the practices infringing the general interests of consumers within the specified time limit may the authorised entity bring a class action in cases concerning the determination of practices infringing the general interests of consumers.

## The Lawsuit

A lawsuit in class action proceedings should meet the conditions specified in the CCP and also include:

- a request for the case to be heard in class action proceedings;
- an indication of the homogeneity of the claims, ie, of their being based on the same or similar facts, pursued by at least ten persons (in the case of monetary claims in cases other than consumer claims, the amount of the claims of the members of the group or subgroup should also be standardised);
- the amount of the claim of each member of the group or subgroup, in the case of monetary claims; and
- a declaration by the claimant that they are acting as the representative of the group.

A lawsuit in cases involving monetary claims to determine the defendant's liability for a specific event or events should also include an indication of the monetary claims to be pursued by the requested judgment establishing liability, although it is not necessary to indicate the amount of these claims.

## Additional Formal Requirements for the Lawsuit

In addition, the lawsuit must be accompanied by statements from the group members confirming their participation in the group, and their consent to the appointment of a group representative, as well as an

agreement between the group representative and the attorney specifying the attorney's remuneration.

If the claimant is the Financial Ombudsman, the lawsuit must be accompanied by statements from the group members confirming their participation in the group.

In cases concerning claims related to practices infringing the general interests of consumers, the lawsuit must be accompanied by statements from the members of the group confirming their accession thereto, and the agreement between the authorised entity and the representative specifying the method of remuneration of the representative – and in the case of financing of the authorised entity by another entity, including an entrepreneur or an organisation of entrepreneurs, an agreement with the financing entity.

In cases concerning the determination of practices infringing the general interests of consumers, the following should be attached to the lawsuit:

- information on whether proceedings are pending before the President of the Office in connection with the same infringement by the same entrepreneur indicated in the current notification;
- other information relevant to the action brought, presented by the President of the Office;
- the agreement between the authorised entity and the representative, specifying the method of remuneration of the representative – and in the case of financing of the authorised entity by another entity, including an entrepreneur or an organisation of entrepreneurs, the agreement with the financing entity; and
- a copy of the request to the entrepreneur to cease these practices, together with proof of service.

In the statement of accession to the group, in cases concerning claims related to practices infringing the general interests of consumers and concerning several claims for a declaration of practices infringing the general interests of consumers, the group member shall also provide information pertaining to:



- joining the group in other group proceedings brought against the defendant in connection with the same infringement;
- bringing an action against the defendant in connection with the same infringement; and
- the method of communication with the authorised entity.

### Decision on the Admissibility of Class Action

After hearing the parties, the court decides on the admissibility of class action. The court dismisses the lawsuit if the case does not fall within the scope of the GPA. Otherwise, the court issues a decision to hear the case in class action, which is subject to appeal.

### 3.3 Standing

The representative of the group has the legal standing to bring a class action. The representative may be:

- a member of the group;
- the district (municipal) consumer ombudsman, if the claims concern consumers; or
- the Financial Ombudsman, in the categories of claims specified in the GPA.

The representative acts in his or her own name but on behalf of all members of the group. The minimum number of persons in a group is ten, whose claims must be of the same type and based on the same or very similar factual grounds.

Other entities with legal standing include:

- non-governmental organisations – in certain situations, these may participate in class actions, but their powers are limited in terms of subject matter and scope; and
- public authorities – among others, the consumer ombudsman has legal standing in certain categories of cases.

### 3.4 Class Members, Size and Mechanism – Opting In or Out

Polish solutions are based on the assumption that class actions cover the claims of those persons who clearly expressed such a desire – the so-called opt-in.

### Rules for Determining the Group

Claims pursued in class actions must be of the same type, based on the same or similar facts. Claims pursued in class actions in cases concerning the determination of practices infringing the general interests of consumers, or concerning claims related to their application, may also be based on the same legal basis.

The group must consist of at least ten persons. There is no upper limit on the number of group members.

In cases concerning monetary claims, the amount of each group member's claim must be standardised by equalising the amount of the claim pursued by the members of the group or subgroup, which must consist of at least two persons.

### Court Decision on the Composition of the Group

After the submission of applications (see the following) and the expiry of the deadline for raising objections to membership, the court issues a decision on the composition of the group. This decision may be appealed but once the court's decision on the composition of the group becomes final, it is generally impossible to leave the group.

### Terms and Conditions of Joining

After initiating class proceedings, the court shall announce this fact in the manner most appropriate for the case, so as to inform all those potentially interested in joining the group of the proceedings (the "Announcement").

The Announcement may be published on the Public Information Bulletin website of the competent court, on the websites of the parties or their representatives, or in the national or local press. In the Announcement, the court shall inform about the possibility of joining the group and set a deadline for submitting statements from third parties. This deadline is between one and three months from the date of the Announcement. Joining after the deadline set in the Announcement is not permitted.

### Persons Who Have Already Filed a Lawsuit

If someone has individually filed a lawsuit against the defendant before the commencement of the class

action, they may submit a statement pertaining to joining the class no later than the date of completion of the class action in the first instance. After such a statement, the court shall discontinue the individual proceedings of that person (with regard to the claim covered by the group).

### Joining the Group

A person who wishes to become a member of the group submits a statement of accession to the group (the “Statement”) to the group representative or authorised entity. The Statement must specify the request, indicate the circumstances justifying it, demonstrate membership of the group and provide evidence. The group representative (claimant) shall draw up a list of persons who have submitted the Statement and deliver it to the court.

After the expiry of the deadline specified in the Announcement – if the Announcement has been omitted (in a situation where the circumstances of the case indicate that all members of the group have submitted Statements) – and after the decision to hear the case in group proceedings becomes final, the presiding judge shall set a deadline (not less than one month) for the defendant to raise objections regarding the membership of specific persons in the group or in subgroups.

### Resignation/Withdrawal From the Group

After the deadline specified in the Announcement, and if this has not been done (in a situation where the circumstances of the case indicate that all members of the group have submitted Statements) after the decision on the examination of the case in group proceedings becomes final and the deadline for the defendant to raise objections to the membership of specific persons in the group or subgroups has expired, the Court shall issue a decision on the composition of the group. This decision may be appealed, which does not suspend the substantive examination of the case.

Once the decision on the composition of the group becomes final, a statement by a group member to leave the group shall be ineffective, except in group proceedings in cases concerning claims related to practices infringing the general interests of consumers, in which a group member may, by way of a state-

ment submitted to the court, withdraw from the group in the event of a settlement if they do not agree with its terms – within two weeks of being informed of the settlement.

### No Requirement to Form a Group

The requirement to form a group and submit declarations of accession thereto does not apply to actions brought in cases concerning the determination of practices infringing the general interests of consumers.

### 3.5 Joinder

The procedure for subsequent parties to join the collective redress proceedings is described in **3.4 Class Members, Size and Mechanism – Opting In or Out**.

### 3.6 Case Management Powers of Courts

In class action proceedings, the court is authorised to conduct preparatory proceedings for the purpose of gathering evidence and ensuring the efficient organisation of the entire proceeding. It may do so even before summoning the defendant to respond to the statement of claim.

The court may order the parties to exchange pleadings, specifying the order in which the pleadings are to be submitted, the deadlines for their submission and the circumstances to be clarified.

It should be noted that, in the first phase of class action proceedings, the court decides on their admissibility.

### 3.7 Length and Timetable for Proceedings

Cases heard in Poland in class action proceedings are decided by three professional judges. These judges are not dedicated solely to hearing a given case. This does not facilitate the efficient examination of class action cases. The time taken to hear these cases in the first instance ranges from five to over ten years.

### 3.8 Mechanisms for Changes to Length/ Timetable/Disposal of Proceedings

Cases heard in group proceedings are not classified as priority or urgent cases, which should be given priority with respect to hearing dates or sessions. This is regulated by the internal rules of procedure of the

courts. There is also no simplified procedure for these cases.

The speed of adjudication therefore depends primarily on the proper organisation of the proceedings by the court.

### 3.9 Funding and Costs

The general rule regarding the bearing of litigation costs under the CCP is that they are borne by the losing party. Litigation costs include court fees – fees paid for documents submitted by the parties, such as a lawsuit or appeal, and expenses related to the proceedings (primarily the costs of taking evidence). The costs of the proceedings also include the costs of representation by a professional attorney-at-law, for which a flat rate is specified in the separate regulation. To initiate a case, the party must pay a court fee.

In class actions, a fixed fee is charged for claims for the protection of non-property rights, while in cases concerning property rights, a proportional fee is charged, depending on the value of the dispute. The amount of the fees is regulated in detail by the Court Costs Act.

As a rule, class actions in Poland are financed by the members of the group. This is most often regulated by an agreement to which a professional representative is also a party. Such an agreement may specify the remuneration due to the representative in relation to the amount awarded in the judgment, not exceeding 20% of that amount.

In cases concerning claims related to practices infringing the general interests of consumers, which may be brought by an authorised entity, the regulations explicitly provide for the possibility of financing the proceeding by another entity, including an entrepreneur or an organisation of entrepreneurs. In such a case, the court has the power to examine whether the financing entity is in violation of the applicable rules – in particular whether or not it is a competitor of the defendant. The court is then entitled to request a change of authorised entity or even to dismiss the claim.

### 3.10 Disclosure and Privilege

Court proceedings in Poland, including class actions, are generally open to the public. The Minister of Justice maintains a list of pending class actions in which an Announcement of the commencement of class action proceedings has been ordered, which is published in the Public Information Bulletin.

In class actions, it is possible to request that the defendant or a third party disclose or surrender evidence in their possession that is relevant to the determination of the case. When requesting the disclosure or release of evidence, the party should undertake to use it exclusively for the purposes of the pending class action.

### 3.11 Remedies

Within the framework of a class action, it is permissible to pursue:

- monetary claims, but only if the amount of each group member's claim has been standardised by equalising the amount of the claim pursued by the members of the group or subgroup;
- a request to determine the defendant's liability for a specific event or events; and
- a declaration that practices violating the general interests of consumers have been used.

### 3.12 Settlement and ADR Mechanisms

In Poland, there are no separate mechanisms for out-of-court dispute resolution in collective redress proceedings. They are analogous to other proceedings under the CCP. The court may refer a case heard in collective proceedings to mediation.

It is possible to reach a settlement in class action proceedings, but this requires the consent of more than half of the group members. The court may also deem a settlement inadmissible if the circumstances of the case indicate that the actions in question are contrary to the law or good morals, or are intended to circumvent the law or grossly violate the interests of the group members.

A member of a group affected by class action proceedings in cases concerning claims related to practices infringing the general interests of consumers

may, by way of a statement made before the court, withdraw from the group in the event of a settlement if they do not agree with its terms, within two weeks of being informed of the settlement.

### 3.13 Judgments and Enforcement of Judgments

The Polish legislator has opted for an opt-in model of collective proceedings, in which a member of the group must clearly express their willingness to participate therein. The ruling issued as a result of the action brought is binding only on the person who has clearly expressed such a wish.

A final judgment is effective for all members of the group. In its judgment, the court lists all members of the group or subgroup. The defendant is not bound by the judgment in relation to persons who did not join the group and are not listed in the judgment.

The enforcement title for the enforcement of a monetary payment due to a member of the group or subgroup is an extract from the judgment, or the judgment together with an extract from the list of group or subgroup members attached thereto, indicating in particular the amount of the payment due to him or her.

In cases concerning the determination of practices infringing the general interests of consumers, an additional mechanism is provided for to compel the defendant to comply with a final judgment.

In its decision, the court may impose a fine on the defendant for each day of delay in complying with the final judgment, the amount of which is determined by the GPA.

## 4. Legislative Reform

### 4.1 Policy Development

Following the recent amendment to the GPA as a result of the implementation of the RAD, described in **1.3 Implementation of the EU Collective Redress Regime**, there are no initiatives aimed at further changes to the regulations concerning group proceedings.

In 2024, the Civil Law Codification Commission was re-established to reform substantive and procedural civil law and commercial law. Its work is intended to streamline the legislative process and contribute to the harmonisation of Polish law with European law.

In the area of civil procedure, the Commission's priority is to review the solutions introduced as a result of the criticised amendment to the CCP in 2019, as well as to clarify the regulations adopted during the pandemic, which adapted the regulations in force at the time to the changed reality on an ongoing basis. It is also working on new solutions to adapt the current civil procedure to the current social and economic realities, with an emphasis on strengthening the protection of consumers and small businesses. In the longer term, the Commission also plans to develop a draft of a completely new CCP. It is therefore possible that it will also address the regulation of class actions, but there is currently no clear information in this regard.

### 4.2 Legislative Reform

Similarly to **4.1 Policy Development**, following the recent amendment to the GPA as a result of the implementation of the RAD, there are no significant legislative initiatives aimed at further changes to the regulations concerning class actions.

As part of the work of the Civil Law Codification Commission, a proposal has been made to introduce changes concerning the jurisdiction of the court hearing appeals against decisions issued in the course of proceedings. In addition, a parliamentary bill to amend the GPA has been submitted. The proposed solutions are intended to enable faster proceedings and increase public confidence in this institution, which in practice is rarely used due to the long duration and high level of complexity of proceedings. The draft bill was negatively assessed by the Council of Ministers as providing for solutions that contradict the idea of class actions.

## 5. Key Trends

### 5.1 Impact of Key Trends

Given the global and pan-European trend towards the promotion of class action as an instrument designed, on the one hand, to make it easier for creditors to pursue their claims and, on the other, to relieve the burden on the justice system, it can be assumed that they will grow in popularity. In 2025, it will be 15 years since the GPA came into force. Looking at the statistics, it can be argued that, in practice, it is not a frequently used instrument, mainly due to the difference between the procedure itself and the solutions known to the CCP, as well as to the duration of the proceedings.

However, the significance of class actions in the still-developing Polish legal culture cannot be denied, especially in cases concerning violations of competition law and consumer rights. Key trends are described in more detail in the [Trends & Developments chapter](#) in this guide.



## Trends and Developments

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**Sowisło Topolewski Kancelaria Adwokatów i Radców Prawnych S.K.A.** is a leading full-service Polish law firm with nearly 30 years of experience and litigation as its core. Having its offices in Warsaw, Poznań and Berlin, with a team of 100+ legal and tax professionals, the firm provides nationwide advice and supports clients in all areas of law, often with multidisciplinary teams. Sowisło Topolewski provides legal support to an extensive client base, including large corporates, micro-, small and medium-sized entrepreneurs, public institutions, healthcare provid-

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## POLAND TRENDS AND DEVELOPMENTS

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## Fifteen Years of Class Actions in Poland

When class actions were introduced into the Polish legal system, the purpose of this institution was debated by both legal theorists and practitioners. This was due to the lack of a tradition of class actions in Polish legal culture. Their somewhat artificial implementation was influenced by global trends, including their dynamic development in Europe.

The legislator had high hopes for this (at the time) revolutionary procedure. New economic and social phenomena affecting broader groups of entities, primarily consumers, required an innovative approach. The idea behind class actions was, on the one hand, to encourage individuals to assert their rights and claims, even in smaller cases, and on the other hand to break down the barrier between consumers and businesses – ie, between the weaker and stronger parties in a legal relationship. In addition, the intention was to relieve the burden on the common courts, which were already struggling with a steadily increasing number of incoming cases. Class actions were also intended to promote uniformity of jurisprudence in similar cases, thereby increasing citizens' confidence in the justice system.

The very manner in which class actions were introduced into the Polish legal system – by means of a separate legal act, competing with the Polish Code of Civil Procedure (CCP) – raised doubts among the public. The Civil Law Codification Commission, which drafted the bill, conducted comparative research. Inspired by solutions adopted in foreign legal systems, it proposed a number of completely new solutions unknown to the CCP.

Polish civil procedure is based on the individual protection of subjective rights. The CCP does provide for the possibility of initiating proceedings or participating in them by an entity other than the party itself; for example, a prosecutor or a non-governmental organisation. However, this is an exception, dictated by the protection of the rule of law, citizens' rights or the public interest, and not the rule.

Similarly, the institution of joint participation in a dispute is known to the CCP. It is permissible for several entities to act as claimants or defendants if the sub-

ject matter of the dispute concerns rights or obligations common to them – or having the same factual and legal basis – or claims or obligations of the same type – again having the same factual and legal basis. Furthermore, the same court must have jurisdiction to hear the case. However, as a rule, each co-participant in the dispute acts on its own behalf. A co-participant in the dispute may, however, be the representative of another (other) co-participant(s).

Ordinary proceedings conducted under the CCP are initiated by filing a claim. Next, the defendant has the opportunity to respond to the claim, addressing the allegations made therein. If necessary, the court orders the exchange of further pleadings. The parties submit their evidence in these documents. The next part of the proceedings is the hearing, during which the court may urge the parties to reach a settlement. If this does not happen, the evidence is examined. The hearing concludes with the delivery of a judgment.

The work of the Civil Law Codification Commission culminated in the adoption of the Act of 17 December 2009 on pursuing claims in group proceedings (*Journal of Laws of 2010*, No 7, item 44; the Group Proceedings Act, or GPA). It entered into force on 19 July 2010.

In their final form, class action proceedings are characterised by solutions specific to this type of proceeding. First, unlike ordinary proceedings, they consist of several stages, including:

- examination of the admissibility of the class action;
- determination of the composition of the group, consisting of at least ten persons; and
- examination proceedings, during which the merits of the claims are assessed.

Class actions in Poland are based on an opt-in model, and therefore cover claims of persons who clearly express such a wish, with membership of the group being obtained by submitting a declaration. The action is brought by a representative of the group, who acts in his or her own name but on behalf of all members of the group. These cases are heard by district courts with a panel composed of three professional judges.

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The claimant must be represented by a professional attorney.

Doubts regarding the separation of class actions from the solutions known to the CCP have not ceased after the GPA entered into force.

### *Changes to the GPA over the years*

The GPA has been amended four times over the years. The first amendment entered into force in 2017. Its purpose was to expand the scope of cases heard in class actions and to eliminate the main barriers to hearing cases in such proceedings. The legislator noted that the introduction of class actions had not increased the efficiency of pursuing claims. Between 2010 and 2015, less than 40% of class actions were examined on their merits. These statistics were explained by the excessively lengthy and formalised procedure, as well as the stringent requirements and formalities associated with the use of class actions.

The legislator decided, among other things, to extend the scope of cases heard in class actions to include claims arising from contractual liability and unjust enrichment in cases other than consumer cases. Consumers were also allowed to pursue claims in class actions related to the violation of personal rights, bodily injury or health impairment, including claims by the closest relatives of an injured party who died as a result of bodily injury or health impairment. The criterion for standardising the amount of claims pursued has been modified – members of a group or subgroup should pursue claims for the same amount.

The manner of formulating a claim-initiating class action proceeding aimed at establishing the defendant's liability has also been clarified. It should include an indication of the monetary claims to be pursued after hearing the case, without the need to specify the amount of such claims. The rules concerning security deposits to secure the costs of proceedings have also been modified, inter alia by clearly specifying the grounds that the court should take into account when requiring the claimant to lodge a security deposit to secure the costs of the proceedings. The rules for publishing notices of the initiation of class actions have been made more flexible, and the Minister of

Justice has been required to keep a register of pending class actions.

To ensure the speed of proceedings, the possibility of the court to decide on the admissibility of class actions in a closed session, rather than at a hearing, has been introduced.

Another amendment to the GPA entered into force in 2019 and mainly concerned the introduction of changes to the GPA analogous to those made at that time to the CCP. In addition, given the technical difficulties associated with the large number of entities on the claimant's side, it became possible to include a list of members of the group or subgroup, together with the amount of compensation due to them, in a separate document attached to the judgment, rather than in the judgment itself.

The 2022 amendment introduced the possibility of the Financial Ombudsman acting as a group representative in certain categories of claims against financial market entities or financial institutions, as specified in the GPA.

The last amendment to the GPA was made in 2024 due to the implementation of Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (the "Representative Actions Directive", or RAD).

Essentially, the RAD has been fully implemented into the Polish legal system. Thus, the GPA has been supplemented with the institution of representative actions brought on behalf of consumers.

Differences in relation to the RAD include:

- the authorisation of the President of the Office of Competition and Consumer Protection (the "President of the Office") to join proceedings at any stage if this is necessary to ensure consumer protection;
- a national register of authorised entities – kept in addition to the list drawn up by the European Commission;

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- the introduction of a mandatory pre-trial request to an entrepreneur, calling on them to cease practices that violate the general interests of consumers within 14 days of the date of delivery of the request;
- the introduction of additional formal requirements for a lawsuit, to which statements from group members joining the group and an agreement between the authorised entity and the representative, specifying the representative's remuneration, must be attached – and in the case of financing of the authorised entity by another entity, an agreement with the financing entity;
- the right of the court to determine at any stage of the case whether the financing of the authorised entity by another entity has no impact on the proper protection of consumer interests; and
- the introduction of an obligation to dismiss a lawsuit if, prior to the filing of a class action lawsuit, the President of the Office issues a decision to initiate proceedings concerning practices infringing collective consumer interests or proceedings to declare the provisions of a model contract unlawful.

### *Current statistics on class actions*

The year 2025 marks the 15th anniversary of the GPA coming into force. This period allows conclusions to be drawn as to whether this solution has been effectively adapted to the Polish legal system.

Court proceedings in Poland, including class actions, are generally open to the public. The Minister of Justice maintains a list of pending and finalised class actions, published in the Public Information Bulletin, in which an announcement of the commencement of class action proceedings has been ordered.

Over the course of 15 years, 371 class actions were initiated, of which 60 lawsuits were dismissed and 27 were rejected. Considering the average number of civil cases filed annually in common courts – in 2024, over 9 million civil cases and over 1.7 million commercial cases were initiated – this is a small number.

Among the reasons for the low popularity of class actions in Poland, the high degree of complexity of the proceedings themselves, which consist of several stages, is cited above all; it results in lengthy proceedings. No units specialising in these proceedings have

been established in district courts, which means that these cases are heard by the same judges who hear cases brought under ordinary proceedings. This also does not contribute to the speed of proceedings.

In many cases, initiating court proceedings under the ordinary procedure is a more advantageous solution in terms of the duration of the proceedings. The CCP recognises the institution of joint participation in proceedings on the side of the claimants. There are no restrictions in this regard – neither a maximum nor a minimum number of persons whose claims may be pursued in a single action has been specified, as long as one of the types of joinder exists between them, as determined in the CCP. It can therefore be argued that the CCP and the GPA provide for competing proceedings, with those under the CCP always being brought in one's own name and requiring activity of each claimant.

The claimants in ongoing class actions are:

- a publishing company (group representative);
- a group of entrepreneurs from the tourism industry;
- a group of entrepreneurs from the recreation, entertainment and sports industry;
- a group of club and disco owners;
- a district consumer ombudsman (group representative), on behalf of a group of consumers interested in purchasing real estate in a hotel construction project;
- a municipal consumer ombudsman (group representative), on behalf of a group of bank customers (borrowers);
- a district consumer ombudsman (group representative), on behalf of a group of bank customers (borrowers);
- a group of former shareholders of a company subject to a compulsory share buyout procedure;
- a group of farmers;
- a group of buyers of holiday and residential premises;
- a group of consumers (borrowers);
- a group of buyers of closed-end fund investment certificates;
- a group of persons affected by the failure to maintain air quality standards;
- a group of persons authorised to operate a pharmacy;



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- a group of property owners;
- medical staff;
- a group of tourists;
- a group of clients of property developers;
- a group of owners of damaged works of art;
- a group of members of a housing co-operative,
- a group of residential property buyers;
- a group of city residents – owners or holders of real estate located in an area affected by emissions (vibrations and tremors) in connection with the construction of a building supplies supermarket;
- a group of agricultural land holders; and
- a group of buyers of cosmetologist vouchers.

The defendants in ongoing class actions are:

- entities providing medical services;
- entities operating in the construction industry, including developers;
- financial institutions, including banks and co-operative banks;
- tourism event organisers;
- state legal entities;
- housing co-operatives;
- the owner of an art gallery;
- a railway transport company;
- a cosmetologist; and
- the State Treasury.

The categories of claims pursued include actions for payment, for determination and for the authorisation to perform actions. These claims arose in the context of:

- protection of copyright and related rights;
- unlawful actions and omissions in the exercise of public authority in connection with normative acts issued during the COVID-19 pandemic;
- receiving a share price that does not correspond to the fair value as part of a compulsory share buyout procedure;
- improper performance of tasks related to the implementation of a support programme for vegetable producers;
- damage resulting from an unlawful failure of the State Treasury to conduct criminal proceedings;
- damage caused by incorrect assessment of a developer's creditworthiness, resulting in exces-

sive encumbrance of his assets and preventing him from fulfilling his obligations;

- unjust enrichment resulting from the ineffectiveness of unlawful contractual provisions regarding the indexation of the loan amount and loan instalments to the Swiss franc exchange rate according to the bank's foreign exchange rate table;
- the obligation to refund overpayments resulting from a bank's use of prohibited contractual provisions concerning the conversion of the loan amount disbursed and loan instalments according to the bank's (unilaterally determined) Swiss franc exchange rate;
- the non-existence or invalidity of contractual legal relationships arising from foreign currency-indexed loan agreements, according to which the loan amount was determined on the basis of the bank's foreign currency purchase rate, and the loan instalment amount was determined on the basis of the bank's foreign currency sale rate;
- the invalidity of indexation clauses in mortgage agreements indexed to the Swiss franc exchange rate, or possibly the invalidity of these agreements in their entirety;
- practices infringing on the collective interests of consumers by failing to provide consumers with accurate and complete information, misleading consumers, withholding or failing to clearly communicate information about the product being offered, or providing information that is untrue;
- unduly collected contributions for mandatory low-contribution insurance on the basis of credit agreements containing prohibited provisions;
- breaches of a broker's obligations towards a group of purchasers and holders of investment certificates of four closed-end investment funds;
- exceeding the permissible values for dust concentrations in Poland;
- issuing unlawful subordinate legislation (regulations) on the criteria for classifying medical products that may be marketed in non-pharmacy outlets and pharmacy outlets;
- undue payments made to a developer selling defective real estate;
- improper performance of duties related to the management of an investment fund;
- working hours meeting the requirements for payment of the so-called COVID allowance and failure

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- to pay it – in relation to work in an informal COVID ward;
- improper performance of contracts (tourist services);
  - torts including, among other things, (i) the conclusion of an agreement with a developer (which was to serve the implementation of the investment) when that developer, from the outset, had no ability to fulfil its obligations, and (ii) the submission of a proposal to the members of a group for additional payments for premises under threat in relation to the developer's bankruptcy;
  - flooding of an art gallery due to a burst water pipe in a property;
  - payment of funds remaining after the liquidation of a co-operative;
  - performance of the necessary actions to construct a retention reservoir at the debtor's expense;
  - improper performance of the duties of a closed-end investment fund depositary, which led to a decrease in the value of investment certificates;
  - immissions (vibrations and tremors) in connection with the construction of a building supplies supermarket;
  - soil contamination caused by the transport of copper ore and copper concentrate; and
  - improper performance of a contract consisting in failure to provide aesthetic medicine treatments covered by purchased vouchers.

The above examples illustrate how diverse the subject matter of class actions is. The most frequently sued entities are banks and the State Treasury. Currently, a significant portion of claims arise from so-called Swiss franc cases and cases initiated by purchasers of closed-end fund investment certificates, as well as actions and omissions of the State Treasury and related entities in connection with the COVID-19 pandemic. Recently, tour operators have been the entities most willing to settle cases.

### *RAD and forecasts for the future*

In 2024, as a result of the implementation of the RAD into the Polish legal system, representative actions brought on behalf of consumers were introduced. In the long term, the EU may attempt to further unify the solutions adopted in individual European legislations

in this area – however, this may be a difficult task due to their considerable diversification.

The procedure for recognising representative actions differs slightly from class actions conducted under the GPA, but is nevertheless based on the model adopted in that area.

Representative actions concern claims for a declaration that practices infringe the general interests of consumers or claims related to their application. Practices that infringe the general interests of consumers are actions or omissions by a trader that are contrary to the provisions of EU law, as referred to in Annex I to the RAD and the provisions implementing or applying them, which infringe or may infringe the general interests of consumers.

Only an authorised entity may bring a representative action. To date, the only entity entered in the national register of authorised entities maintained by the President of the Office of Competition and Consumer Protection, and in the list maintained by the European Commission, is the Financial Ombudsman.

Publicly available data shows that the Financial Ombudsman has not yet brought any representative action. There are also no class actions pending brought by this entity.

The last 15 years of GPA validity show that class actions are not a popular means of pursuing claims in Poland. The question of whether the amendment to the GPA resulting from the implementation of the RAD can change the attitude towards this issue remains unanswered. The Financial Ombudsman has an important role to play in favour of consumers.

Furthermore, the ongoing work of the Civil Law Codification Commission may also cover the GPA and lead to more attractive application of class actions and representative actions, especially in consumer cases. These changes could include, for example, more far-reaching preferences in terms of court fees or the introduction of specialised courts to hear class actions. In light of the rapidly changing socio-economic conditions and the growing number of incoming cases for the courts, this would be desirable.

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