

Introduction of class actions in France

The French Parliament has just approved a new bill introducing class actions in France. Subject to the review of the constitutionality of the bill and its approval by the Constitutional council, the new legislation should soon be enacted.

Scope of the class action

- Class actions before the civil courts in France will only be available, to **consumers** who have been wronged by one or several same professionals, in the context of:
 - a **sale of goods**,
 - a provision of **services**, or
 - an infringement of **competition law** (only in cases where such infringement has first been recognized by a final decision of the national or European competition authorities, and where the action is brought within five

Which claims should fall outside of the scope of the French class action?

- Securities class actions
- Claims for compensation of non-pecuniary harm, including claims for compensation of bodily harm
- However, a bill seeking to widen the scope of class actions to health and environmental issues was presented to the Parliament in January 2014

years of this decision).

- At least two consumers must have been placed in a **similar or identical situation** due to the breach by the professional(s) of their contractual or legal duties.
- The procedure only allows for financial or in kind compensation of **individual material damages**.
- Class actions can only be introduced by a **few nationally accredited consumer associations** (sixteen for the time being).

Stages of the procedure

- In a **first judgment**, the court will rule on the professional's **liability** on the basis of individual cases presented by the association.
- In this first judgment on liability, the court will also determine:
 - the **group** of consumers;
 - the **damages** and the **amount** for each individual consumer or category of consumers, or the elements for assessing such damages – to this end, the court may order **investigatory measures** to preserve evidence and the production of exhibits, including exhibits kept by the professional;
 - the **practical means for consumers to join the group** and **obtain**

compensation (whether damages are to be collected directly from the professional, or through the association or legal professional assisting the association with the proceedings);

- measures to **inform** all consumers who may belong to the group of **the decision**, at the professional's expense;
- the **time limits** for consumers to join the group, obtain compensation of their damages and seize the court if the professional does not comply with the judgment.
- The professional must **compensate** the individual damages of each consumer in accordance with the terms, limits and deadline set by the judgment on liability.
- Any difficulty related to the **"implementation" of the judgment on liability** will be solved by the same court in a **second judgment**.
- All **recovery costs** are at the professional's expense.

Simplified procedure

- A simplified procedure may be followed in cases where :
 - the **identity** and **number of consumers** are identified;
 - the **amount** of damages for these consumers is either **identical**, or identical for a

service provided, or identical for a period or duration.

- In such cases, the court may, in one judgment, rule on a professional's liability and order them to **directly and individually compensate** the consumers in accordance with the terms and time limit set by the court.
- Before enforcement of the decision on the professional, all consumers must be individually **informed** of the final judgment at the professional's expense and

each must **positively accept** the compensation as provided by the decision.

Other key points

- French class actions are to be **differentiated from US class actions** where all people meeting the criteria are automatically included in the class unless they "opt-out". In France, there is an "**opt-in**" procedure whereby consumers need to express their consent to be part of the group

and to be compensated after a judgment has been rendered on the professional's liability.

- **The association may decide to settle after mediation.** The settlement agreement, which must be **approved by the court**, shall determine the modalities, time limits and publicity measures for consumers to join the group.
- Jurisdiction over class action is granted exclusively to **civil courts** (*Tribunaux de grande instance*).

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