

WT 

Collective Redress
in CEE & SEE

Hungary

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a) Current collective redress regime

- What forms of collective redress are available in Hungary?

Before the new Civil Procedural Code came into effect in 2018, Hungary lacked a unified system for collective redress, with relevant rules scattered across various sectoral regulations. However, this changed with the introduction of Act CXXX of 2016 on the Code of Civil Procedure (the “Hungarian CCP”).

The Hungarian CCP differentiates between two types of collective redress mechanisms: actions brought in the public interest (Chapter XLII) and collective actions (Chapter XLIII). Chapter XLII consolidates the procedural rules for public interest actions (*actio popularis*) – which were previously dispersed and uncoordinated across different laws – into a single, coherent framework. The cases in which such public interest actions can be brought are determined in different substantive acts. Meanwhile, a separate chapter outlines the rules for the newly introduced collective actions, which serve as a mechanism for enforcing aggregated private interests. The Hungarian CCP distinguishes between these two forms of collective redress mechanisms by noting that collective actions are intended for situations where individual claims are numerous and similar but the public interest does not warrant the involvement of public authorities (e.g. prosecutors, regulatory agencies), making collective action a more efficient approach.

Nevertheless, certain sectoral (substantive) laws continue to provide for forms of collective redress where the new Hungarian CCP does not serve as the governing framework. In these traditional actions, typically classified as *actio popularis*, the legislation does not reference the application of the Hungarian CCP’s general rules for public interest actions. This is likely because, in these cases, the substantive rights holders are either not identifiable or the claim is not (directly) intended to benefit them, which aligns more closely with the structure under Chapter XLII of the Hungarian CCP. Consequently, there will be instances of public interest actions where the provisions of the Hungarian CCP do not apply, and the specific sectoral rules will take precedence.

Additionally, there are forms of claims vindication that result in multiple parties or additional persons on either the claimant or the defendant side (joinder or intervention). However, these do not fall within the scope of collective redress as defined by Hungarian law.

The collective redress options for which the Hungarian CCP functions as a common background are therefore examined below.

b) Key features of collective redress in Hungary

- **Is collective redress available in all areas of law or only in certain sectors?**

In Hungary, collective redress has traditionally been sector-specific, and this has remained the case even after the Hungarian CCP came into force. The ability to bring actions in the public interest is primarily concentrated in areas such as consumer protection, competition law and the challenging of general contract terms.

The same sectoral focus applies to the collective actions introduced by the Hungarian CCP. A collective action can only be brought to vindicate claims related to consumer contracts or labour disputes, as well as claims for damages resulting from health impairments directly caused by unforeseeable environmental pollution due to human activities or negligence.

- **Who is entitled to bring an action (e.g. individuals, groups, qualified entities)?**

In an action brought in the public interest, the claimant is the person or entity authorised to initiate the action. Claimants commonly include the public prosecutor, the consumer protection authority, the Hungarian Competition Authority, the Hungarian National Bank and organisations that meet the statutory requirements. Under the Hungarian CCP, individual claimholders are excluded from being parties to the action.

Collective actions, on the other hand, require groups of at least ten individuals who have suffered similar harm.

- **Which mechanism applies – opt-in, opt-out or both?**

Hungary has implemented a mixed system for collective redress.

Public interest actions primarily operate on an opt-out basis, meaning that individuals are automatically included unless they choose to opt out. However, there are exceptions to this rule. For instance, in representative actions, consumers who do not reside in Hungary would have to explicitly opt in.

In contrast, collective actions are generally opt-in, requiring the consent of the individual claimholders before the action can proceed.

- **What are the requirements to bring an action? Is there a minimum claims threshold?**

In public interest actions, in addition to meeting the general procedural requirements, the statement of claim should indicate the beneficiaries of the action and the means for such beneficiaries to prove that they belong to the specific group of beneficiaries,

so that they receive a share of the judgment award and/or so that the judgment can be applicable to them. The beneficiaries concerned should be defined by presenting facts and circumstances which enable the group of beneficiaries to be identified or, in any case, from which the involvement of beneficiaries on common grounds can be established. Public interest actions also require the entity bringing the action to be authorised to do so and to serve the public interest.

To bring a collective action, there must be at least 10 claimholders and they must have representative rights and representative facts. The collective action must be authorised by the court. An application for authorisation of a collective action must be presented in the statement of claim. The application must contain several specific elements laid down in the Hungarian CCP.

In an action for condemnation, the claimants' claims must be indicated separately.

- **What remedies are available (e.g. monetary compensation, injunctive measures, redress measures)?**

In public interest actions, the provisions of the Hungarian CCP apply with the exceptions set out in sector-specific substantive legislation. Substantive law may, therefore, establish particular causes of action. For instance, in public interest actions, claimants may initiate measures to halt the infringement and remedy the harm. However, in general, any type of action under the Hungarian CCP may be brought in public interest cases, including actions for the condemnation or reformation of rights. Additionally, a motion for declaratory relief may be filed when uniform condemnation is not feasible due to varying amounts being awarded to beneficiaries or when the underlying facts differ even though the right being asserted remains the same.

Similarly, in collective actions, any type of claim under the Hungarian CCP may be pursued on condition that the claimants meet the other statutory conditions for the right asserted. In actions for condemnation, the claims of each claimant must be individually specified.

- **In claims for damages, does loss need to be collectively established or is individual proof required?**

In public interest actions, uniform condemnation is possible. Based on this judgment, the rightful claimants can directly initiate enforcement proceedings. However, as mentioned above, if the amount of the condemnation and the underlying facts differ among claimants, a declaratory judgment may be sought instead. In such cases, claimholders may bring individual actions if they have expressly indicated their intention to do so within the legally prescribed time limit.

In collective actions, the resulting judgment binds the parties with respect to representative law and facts. However, the uniform decision does not preclude discrepancies on issues that are not central to the case. Minor differences, such as variations in the amount awarded, which do not affect the substance of the case, may persist. The legislator intended for judgments on common legal and factual questions to apply to the entire class of claimholders, though in many cases, the judgment may only resolve the legal basis, requiring further individual actions to determine specific amounts.

- **Which types of damages are recoverable (e.g. economic loss, damage to property)?**

There is no general limitation on the types of damage that can be claimed; both pecuniary and non-pecuniary damages may be pursued. Sectoral rules and the specific claims made may influence this.

- **How are damages quantified? On what basis are the damages divided among class members?**

There is no specific provision regarding differences in the amounts claimed within a group. However, as mentioned above, if the claims are not uniform, individual actions may be brought after the collective redress claim has been made, provided the other legal conditions are met.

- **What is the settlement structure, if any?**

There are no limitations on settlement in public interest actions.

For collective actions, the collective action agreement must include provisions for either an absolute ban on settlement or explicit authorisation to negotiate a settlement. Where settlement is authorised, the agreement must specify the minimum sum and other terms that must be included in the settlement. The parties may also require that their consent be obtained for any potential settlement agreement after they have received a copy of it in draft form.

c) Collective redress proceedings

- **How are court proceedings managed? Are there any typical procedures used in the context of collective redress?**

Collective redress actions are handled in civil proceedings in accordance with the specific rules outlined in Chapters XLII and XLIII of the Hungarian CCP. In particularly complex public interest actions, the case may be referred to a panel of three professional judges. For collective actions, referral to such a panel is only possible if the case falls within the jurisdiction of the general court and is justified by its complexity or significant societal importance.

- **Is there a deadline by which claimholders must join proceedings?**

This question is relevant to collective actions under Hungarian law.

The collective action agreement must specify the rules on allowing additional parties to join the agreement after the collective action has been initiated and on whether the parties to the agreement may individually withdraw from the agreement.

If permitted by the collective action agreement, joining a collective action as a new claimholder or withdrawing from it is allowed only during the case initiation stage, subject to court approval. A request to join or withdraw may be submitted to the court by the designated claimholder in a single submission. The court will grant permission only if the joinders and withdrawals do not alter the circumstances affecting the decision to authorise the class action, which would require earlier case initiation acts to be repeated or significantly modified. Proof of joining and withdrawal must include a statement of consent to join the collective redress agreement from a new claimholder and a notice of withdrawal from a withdrawing claimholder.

- **Are there any time limits on initiating court proceedings?**

Sectoral rules may include specific provisions on this matter. Where no specific provision exists, the general limitation period applies, which is five years. It is important to note that when a public interest action is initiated, this is considered an enforcement of the claims on behalf of the beneficiaries involved, in accordance with the limitation rules in the Hungarian Civil Code. If the claim is then dismissed, the limitation period is suspended from the time the action was brought until it is dismissed in respect of any beneficiary who retains the right to bring an individual action.

- **Is pre-trial discovery available?**

There are no specific rules governing this aspect. US-style pre-trial discovery is not available in Hungary. However, legal representatives may attempt to obtain evidence in cooperation with other persons; such activities must comply with the ethical rules for attorneys. If the evidence is obtained in an unlawful manner, the court may disregard its assessment. In fact, in the case of collective action, some kind of discovery activity is justified, as this is the only way to conclude a collective action agreement before litigation. Nevertheless, such discovery activity is rather soft, usually limited to the preliminary hearing of individuals or to obtaining their written statements in order to decide whether or not they should be heard as witnesses later in the proceedings. In some cases, private expert opinions may be obtained prior to litigation.

d) Costs and funding of collective actions

- **Is there a rule as to who has to bear the court fees / legal fees? Does the “loser pays” principle apply?**

In public interest actions, the claimant bears the court costs if unsuccessful, and is entitled to recover them if successful. Because the action is brought on behalf of beneficiaries without their authorisation, they are not required to advance or bear the costs. The claimant cannot be ordered to pay costs advanced by the State, even if the claimant is unsuccessful.

In collective actions, the “loser pays” principle generally applies. If the action is rejected, the class pays the defendant’s costs, including the legal fees. The sharing of costs between the members of the class is governed by the collective action agreement.

- **How are the costs of proceedings shared among class members?**

As mentioned above, in public interest actions the actual claimholders are not considered parties and the costs of proceedings are borne by the claimant authorised to bring the action. The claimant is also entitled to recover costs on proceedings in case of success.

In collective actions, the collective action agreement must outline provisions for the expenses incurred during the formation of the agreement and during the preparation and filing of the action, as well as provisions on the sharing and bearing of costs of proceedings.

- **Is third-party litigation funding permitted in Hungary?**

Third-party funding is not generally regulated or prohibited under Hungarian law, except in one case where it is explicitly allowed and regulated. Hungarian regulations on collective actions provide for the possibility of third-party funding in public interest actions, a unique feature in Hungarian law. However, third-party funding may influence proceedings, particularly if it comes from parties with an economic interest in the outcome. To mitigate this, qualified entities must submit a financial overview to the Minister responsible for consumer protection, who may review and require them to refuse or change the financing. The Minister may even revoke the entity’s right to bring an action.

- **Are there any restrictions on third-party litigation funding?**

As noted, third-party funding is regulated only for collective actions.

- **Are contingency fees permitted in Hungary?**

Although not inherently prohibited, attorney's fees made subject to the success of a legal act cannot be enforced before the court to the extent that the contingency fee exceeds two-thirds of the total attorney's fee. Although contingency fee agreements are not inherently prohibited, any portion exceeding two-thirds is unenforceable in court.

e) **Jurisdictional implications**

- **Are there any limitations on cross-border collective actions?**

The Hungarian CCP does not impose any restrictions. General rules on jurisdiction and the nature of sectoral regulation can be a barrier, but in principle sectoral rules do not create barriers. The Hungarian Consumer Protection Act contains explicit provisions on cross-border collective actions.

- **Can claims be brought by residents of other jurisdictions?**

The Hungarian CCP does not impose any restrictions on cross-border collective actions. General rules on jurisdiction and sectoral regulations might create barriers but, typically, sectoral rules do not. The Hungarian Consumer Protection Act contains explicit provisions on cross-border collective actions, allowing qualified entities from other EU Member States to bring such actions before Hungarian courts. It also states that where an individual consumer is not a resident of Hungary, the judgment in a public interest action will only apply to that consumer if they have explicitly requested representation in that action.

f) **Developments and reforms in collective redress**

- **Are there any expected developments / reforms in this area?**

There is no indication that the legislator plans any changes to the current system of collective redress in the near future.

g) Risk assessment

- **How frequently are collective actions brought each year and in what areas are they most common?**

Precise statistics are not available, but practice shows that while public interest actions are more common, they are still not frequent. Collective actions, introduced only a few years ago, remain relatively rare in Hungary.

- **Based on the information provided above, is the risk to companies of facing collective actions high / medium / low?**

Low risk.

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