

# Legal 500

## Country Comparative Guides 2025

### Brazil

### Class Actions

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This country-specific Q&A provides an overview of class actions laws and regulations applicable in Brazil.

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## Brazil: Class Actions

### 1. Does your jurisdiction have a class action or collective redress mechanism? If so, please describe the mechanism and outline the principal sources of law and regulation and its overarching impact on the conduct of class actions in your jurisdiction.

In Brazil, there are several types of proceedings through which it is possible to protect the interests or rights of determined or undetermined groups of individuals or legal entities. Notably, the Civil Public Action ("CPA")—regulated by Federal Law No. 7,347/1985 ("CPA Law")—is one of the key instruments, along with the collective procedure set forth in the Brazilian Consumer Defence Code ("CDC") (Articles 91 to 100).

Other mechanisms worth highlighting include the *ação popular* ("popular action"), governed by Federal Law No. 4,717/1965 and Article 5, item LXXIII of the Brazilian Federal Constitution ("CF"); the *mandado de segurança coletivo* ("collective writ of mandamus"), established in Article 5, item LXX of the CF; and the *ação de improbidade administrativa* ("administrative improbity action"), provided by Federal Law No. 8,429/1992.

Among these, the most widely used collective redress mechanism is the CPA. According to Article 81, items I to III of the CDC and Article 21 of the CPA Law, three types of rights may be protected through a CPA:

- (i) Diffuse rights, which belong to the general community and are indivisible—for example, environmental protection;
- (ii) Collective rights, which are also indivisible but pertain to a specific group of individuals or legal entities connected by a legal relationship—for example, an association of consumers harmed by a certain practice; and
- (iii) Individually homogeneous rights, which derive from a common origin and apply to a set of individuals harmed by the same event or conduct—for example, consumers affected by a defective product or service used according to instructions.

The primary distinction between the first two categories and the third is that diffuse and collective rights are inherently indivisible, whereas homogeneous individual

rights are divisible and may later be pursued individually depending on the judgment's outcome.

These laws enable entities such as the Public Prosecutor's Office, Public Defender's Office, and associations established at least one year before the lawsuit to bring actions on behalf of groups or the public interest.

In terms of proceedings, CPAs follow a distinct model, shaped not only by statutory law but also by case law from Brazil's Supreme Court ("STF") (RE 631.111-GO). The type of right at issue significantly influences the course of the proceedings: when dealing with collective or diffuse rights, the court focuses on establishing the defendant's liability for the harm caused. If liability is found, the court orders measures to redress the damage. In cases involving individual homogeneous rights, affected individuals have the opportunity to come forward during the proceedings to claim the compensation they are entitled to.

CPAs aimed at safeguarding individual homogeneous rights typically unfold in two phases. The first phase seeks to establish a general legal thesis, culminating in a declaratory decision by the court recognizing the defendant's responsibility. In the second, or quantification phase, each affected individual must present evidence that they fit within the scope of the established thesis. Upon proving both their losses and the causal link to the defendant's conduct, individuals can quantify their damages and be awarded the appropriate compensation.

In the absence of specific law provisions, the Brazilian Civil Procedure Code ("BCPC") will be subsidiarily applicable to all collective judicial proceedings (for example, Article 19 of the CPA Law and Article 7 of Federal Law No. 4,717/1965).

### 2. What is the history of the development of the class actions/collective redress mechanism and its policy basis in your jurisdiction?

Class actions in Brazil have their origins in the 1960s with the introduction of the so-called 'popular action', which aimed to enable any citizen to challenge acts by public authorities or public entities that were harmful to public

property, the environment, cultural heritage, or administrative morality. In 1985, a procedural subsystem was established specifically for the protection of the community through Law 7,347/1985. The enactment of the Brazilian Constitution in 1988 further strengthened this framework by recognizing the protection of transindividual rights, including environmental protection, cultural heritage, and other collective interests. In 1990, the Consumer Protection Code (Law 8,078/1990) was introduced, which not only regulated consumer relations but also addressed the Public Civil Action in its Title III, solidifying the existence of a procedural microsystem designed to defend collective rights.

### 3. What is the frequency of class actions brought in your jurisdiction, in terms of number of cases over the years and/or comparison to other types of litigation?

The Brazilian National Council of Justice (CNJ), the public entity responsible for overseeing the Brazilian judiciary, reports that as of December 31, 2024, there were 151,019 public civil actions (CPAs) pending before Brazilian courts. In the year 2024 alone, 50,097 new CPAs were filed, marking a slight increase compared to 46,832 new CPAs in 2023 and 41,642 new CPAs in 2022. While these figures demonstrate a steady increase in the number of class actions, they are still relatively modest when compared to the overall volume of civil claims filed in small claims courts and the significant number of enforcement actions initiated by public authorities. Specifically, 5,701,885 new civil claims and 1,944,931 new enforcement claims were filed in 2024 alone. These figures underscore the fact that while class actions are an important mechanism within Brazil's judicial system, they still represent a relatively small proportion of the overall litigation landscape.

### 4. Are there certain courts or types of claims that are most prevalent (for example competition vs commercial litigation generally)?

As previously mentioned, the most prevalent type of collective proceeding in Brazil is the Civil Public Action (CPA), which is primarily used to address issues related to consumer rights and environmental harm. These are, therefore, the most common types of claims, typically filed before State Courts as civil matters. However, it is important to note that, while CPAs are widely used in consumer and environmental cases, other claims involving other collective interests—such as human rights and cultural heritage—are also addressed under this

mechanism.

In addition to consumer and environmental claims, CPAs also play a significant role in Brazil's labor law framework. Labor unions, public authorities, and other organizations may use CPAs to address collective labor rights, such as wage violations, labor conditions, and other systemic issues affecting workers. The Civil Public Action, therefore, extends beyond traditional consumer and environmental issues, reflecting the broad scope of collective rights in Brazil's legal system.

### 5. What is the definition of 'class action' or 'collective redress' relevant to your jurisdiction?

In Brazil, the legal framework recognises three main categories of collective interest, as set by Article 81 of Law No. 8,078/1990: diffuse, collective, and individually homogeneous rights. These classifications form the basis for determining the scope and admissibility of collective redress actions:

- Diffuse rights are transindividual and indivisible, held by indeterminate persons connected by a common factual situation. Typical examples include environmental harm or consumer health violations affecting the general public. (Art. 81, I)
- Collective rights are also transindividual and indivisible, but pertain to a determinate group, category, or class of individuals who are linked among themselves or to the opposing party by a legal relationship, such as users of a specific public service or members of an employment category. (Art. 81, II)
- Individually homogeneous rights are individual and divisible rights that share a common origin, often arising from the same factual or legal context. While individually held, these rights may be pursued collectively when doing so enhances procedural efficiency or ensures effective access to justice. (Art. 81, III)

The principal procedural vehicle for pursuing these rights, the Civil Public Action (as referred in prior questions), enables designated entities—such as the Public Prosecutor's Office (Ministério Público), Public Defenders (Defensoria Pública), government agencies, and registered civil associations—to bring claims in defence of any collective interests, but also in areas like consumer relations, environmental protection, and public health.

### 6. What are the general 'triggers' for commencement of a class action or collective

## redress in your jurisdiction from a factual perspective?

Any violation of collective interests may trigger the commencement of collective redress mechanisms in Brazil. From a factual perspective, collective actions are typically initiated in response to events or conduct that affect a group of people in a similar or indivisible manner, often where individual litigation would be impractical or inefficient.

The most common factual triggers include:

- **Environmental disasters** (e.g. dam failures, industrial pollution, deforestation): These typically involve diffuse rights, where the harm is indivisible and affects an indeterminate number of people or the environment itself. The Mariana and Brumadinho dam disasters are emblematic cases where public civil actions were brought on behalf of affected communities and ecosystems.
- **Mass consumer rights violations**: For example, misleading advertising, defective products, abusive contractual clauses, or systemic failures by service providers (telecommunications, banking, energy). These may involve individually homogeneous rights, where consumers are individually affected, but the unlawful conduct arises from a common origin.
- **Public service failures or structural violations of fundamental rights**: Collective redress may also be triggered by systemic issues in areas such as healthcare, education, housing, or prison conditions, particularly where such failures impact vulnerable populations and raise questions of collective or diffuse rights.
- **Labour rights violations affecting groups of employees**: Where a company engages in widespread unlawful practices (e.g. outsourcing violations, workplace discrimination), collective actions may be brought by unions or labour prosecutors to protect collective rights.

In Brazil, standing is limited to a small range of authorised claimants (e.g. Ministério Público, Defensoria Pública, governmental bodies, and registered civil associations), who may initiate proceedings once there is sufficient factual indication of harm to a transindividual interest. The evidentiary threshold is relatively low at the commencement stage, especially when urgent measures (e.g. injunctions) are needed to prevent ongoing or irreparable harm.

Thus, the primary factual trigger is the occurrence (or serious risk) of collective harm, whether to a broad segment of the population, a defined group, or to

indivisible interests like the environment or public health.

## 7. How do class actions or collective redress proceedings typically interact with regulatory enforcement findings? e.g. competition or financial regulators?

Brazilian regulatory bodies are not legally required to intervene in public civil actions judicial proceedings (CPAs), even when the subject matter involves regulatory matters. Nonetheless, regulatory agencies may identify relevant aspects in the legal discussion and request to join the proceedings as *amici curiae*, which the Brazilian courts generally grant.

Regulatory bodies in Brazil are vested with specific authority to adjudicate the merits of sector-related issues (such as antitrust, financial markets, and telecommunications). Consequently, it is common for a CPA to rely on final and unappealable decisions issued by such regulators, particularly when these decisions recognise harm caused to the collective interest. These regulatory findings can significantly influence the outcome of collective redress proceedings, providing an authoritative basis for claims of harm.

In recent years, the interaction between regulatory enforcement and collective redress mechanisms has expanded to cover emerging areas such as artificial intelligence (i.e., not yet regulated in Brazil). Regulatory bodies have increasingly issued technical opinions on the risks and damages associated with the use of AI technologies, and such findings are expected to shape future collective actions, particularly given harm caused to consumers, data subjects, or the public at large can be established.

## 8. What types of conduct and causes of action can be relied upon as the basis for a class action or collective redress mechanism?

In general terms, the Civil Public Action (CPA) can be used to protect any right that extends beyond the purely individual sphere. The claim can cover a wide range of issues and may be declaratory or include an order for payment or action. Article 1 of the CPA Law outlines the following:

Art. 1 The provisions of this Law govern, without prejudice to popular action, claims for liability for moral and property damages caused:

I – to the environment;

II – to the consumer;

III – to goods and rights of artistic, aesthetic, historical, touristic and landscape value;

IV – to any other diffuse or collective interest;

V – by infringement of the antitrust system;

VI – to the urban zoning system;

VII – to the honour and dignity of racial, ethnic or religious groups,

VIII – to public and social heritage.

This is not an exhaustive list, as Item IV explicitly allows for the protection of: "any other diffused or collective interest". Moreover, Article 21 was added to the CPA Law, providing that the rules of Title III of the CDC applied to the "defence of diffuse, collective and individual rights and interests". As a result, the CPA Law was extended to encompass (a) all other types of general and collective rights not previously listed and (b) for the first time, certain individual rights (namely, homogeneous individual rights).

Thus, as noted above, the CPA Law and the CDC now are jointly applied for the defence of diffuse, collective and homogeneous individual interests.

### 9. Are there any limitations of types of claims that may be brought on a collective basis?

Under Brazilian law, there are some legal restrictions on the scope of available collective civil actions. For instance, civil actions cannot be brought on a collective basis in relation to: (i) tax issues or social security contributions (all according to Sole paragraph of Article 1 of the CPA Law), (ii) to declare the unconstitutionality of a law or a legal provision.

### 10. Who may bring class action or collective redress proceeding? (e.g. qualified entities, consumers etc)

According to Article 5 of the CPA Law, the Brazilian entities with legal standing to file a CPA are:

- the Public Prosecutor's Office;
- the Federal Government;
- the States;
- the Federal District;
- the Municipalities;

- the Public Defenders' Office;
- all government agencies;
- all public companies;
- all foundations;
- the government-controlled (private) companies and the associations that: (1) have been created for at least one year; and (2) have among their institutional objectives the protection of: (i) the environment, (ii) the consumer, (iii) the antitrust system, (iv) free competition, (v) historical, touristic, artistic, landscape and aesthetic heritage.

### 11. Are there any limits on the nationality or domicile of claimants in class actions or collective redress proceedings?

There are no specific limits to the nationality or domicile of claimants, but the criteria that determine the jurisdiction are expressly established in the CPA Law (place of the damage) and the CDC (type of the damage).

### 12. Are there any limitations on size or type of class?

In Brazil, there are no strict limitations on the size of the class in collective actions, as long as the claim concerns a collective or diffuse interest that can be represented by a group of individuals with shared rights or needs. However, the class must be defined by the court based on the nature of the claim, and the individuals involved must have common interests, whether they are related to consumers, the environment, or other collective rights.

The type of class is also important, as Brazilian law distinguishes between different categories of collective interests, including diffuse, collective, and homogeneous individual interests. For example, while a class based on consumer rights or environmental protection is common, a class representing specific individual rights (such as homogeneous individual interests) must meet certain criteria to ensure the interests of the group are sufficiently aligned.

### 13. Are there any requirements or prohibitions in sourcing this class?

In Brazil, sourcing a class for collective action is governed by specific legal requirements, although there are no express prohibitions regarding how the class is formed. The class must consist of individuals or entities that share common rights or interests—classified under Brazilian law as diffuse, collective, or homogeneous



individual interests. These interests must be sufficiently connected and identifiable, and the claim must address a common factual or legal issue.

Only certain entities have legal standing (*legitimatio ad causam*) to represent the class in court, such as the Public Prosecutor's Office, public defenders, government entities, and civil associations established for at least one year with a statutory mandate to protect the relevant rights (unless the public interest justifies otherwise).

While there are no prohibitions on who may belong to the class, there are legal limitations on the types of claims that may be brought collectively. Under Brazilian law, civil public actions may not be filed to address tax matters or social security contributions, as expressly provided in the sole paragraph of Article 1 of the CPA Law. Likewise, collective actions cannot be used to declare the unconstitutionality of a law or a normative act, which must instead be addressed through proper constitutional review mechanisms.

As such, while the formation of a class is flexible and inclusive within the bounds of shared legal interest, the nature of the claim itself must fall within the permitted scope of collective redress under Brazilian law.

#### 14. Which courts deal with class actions or collective redress proceedings?

The organisation of the Brazilian judicial system is a constitutional matter (articles 92-126 of the CF), and there is a fundamental internal division between the Specialised Courts and the Ordinary Courts. The three main divisions of the Specialised Courts are the Labour Courts (articles 114-117 of the CF), the Electoral Courts (articles 118-121 of the CF) and the Military Courts (articles 122-124 of the CF), each with its own appellate courts.

As part of the Ordinary Courts, the Federal Courts are organised into Judicial Sections, with Lower Courts where single judges act. The jurisdiction of the Federal Courts of first instance is established in Article 109 of the CF, and in civil matters, it is essentially restricted to the cases in which the Federal Government or certain entities and public bodies linked to it have an interest (article 109, I of the CF).

The jurisdiction for appeals is determined on a regional basis by the Federal Courts (i.e., the Federal Regional Courts) and is established in Article 108 of the CF.

The jurisdiction of the State Courts (Ordinary Court) is

residual. It is not defined case by case in the CF and encompasses all the matters that are not under the jurisdiction of the Federal Courts.

Thus, the State Courts have jurisdiction to hear appeals against judgments rendered by first-instance State judges, except when the State judge has decided on a matter of federal jurisdiction (exception provided in Article 108 of the CF).

In conclusion, there is no specific court to judge class actions in Brazil. So, in theory, any Brazilian court could deal with class actions or collective redress proceedings, and the court distribution will primarily follow the factual (e.g. territorial, as provided by Article 2 of the CPA Law) and legal matters (e.g. violated rights) under discussion.

However, the court where the CPA has previously been filed attracts all further judicial proceedings based on the same claim or subject (Article 2, sole paragraph, CPA Law).

#### 15. Are there any jurisdictional obstacles to class actions or collective redress proceedings?

While Brazil has a well-established and progressive framework for collective redress, certain jurisdictional and procedural obstacles may affect the effective filing and conduct of such actions.

There is ongoing debate in the Superior Court of Justice (STJ) that has not been able to diminish the inconsistent judicial practice regarding territorial jurisdiction, especially in nationwide or transregional harm. While Law No. 7,347/1985 provides for filing in the venue where the harm occurred or where the defendant is located, fragmentation and overlapping of claims across different forums can result in inefficiency, contradictory judgments, or forum shopping.

Perhaps the most critical practical obstacle is that collective redress proceedings in Brazil are typically slow and rarely result in timely, full compensation for victims. Complex evidentiary stages, procedural appeals, and challenges in quantifying and individualising damages often mean that cases take many years—sometimes decades—to reach a final resolution.

Even where liability is established, the enforcement phase is particularly problematic as courts may determine that the collective judgment requires individual liquidation proceedings to quantify compensation per victim (*liquidação de sentença individual*), reintroducing burdens of individual litigation. Victims may also be

unaware of the judgment or face bureaucratic barriers to accessing compensation. In some cases, judgments result in symbolic or structural remedies, but fail to deliver meaningful, material redress to affected individuals or communities.

In transnational cases—especially those involving multinational corporations or cross-border harm—Brazilian courts have taken an expansive view of jurisdiction, asserting competence where effects are felt within Brazil. However, enforcement of collective judgments abroad, or cooperation with foreign class actions, still face resistance due to differing legal traditions and concerns over public policy, *res judicata*, or due process.

## 16. Does your jurisdiction adopt an “opt in” or “opt out” mechanism?

Article 104 of the CDC states that collective actions cannot prevent individuals from pursuing individual actions based on their individual rights, which allows the coexistence of class actions and individual actions on related matters or pleadings.

That said, the Brazilian jurisdiction is an ‘opt-out’ jurisdiction. The final decision granting the collective claim is *erga omnes*, and all individuals with subjective rights covered in the claim benefit and can voluntarily enforce it throughout the country.

In case of an existing individual action at the moment of the class action distribution, the individual can request the suspension of his/her individual proceeding in order to rely on the final resolution of the class action (Article 104 of the CDC).

In addition, the individual member of the group may also ‘opt-out’ from the class action by filing an individual claim (Article 103, § 3, of the CDC). They may also opt not to proceed with the liquidation and enforcement of the final decision issued in the CPA.

## 17. What is required (i.e. procedural formalities) in order to start a class action or collective redress claim?

To commence a collective redress claim in Brazil, the claimant—who must have legal standing to sue under the applicable legislation explained before—must file a petition (particulars of claim) before the competent court. The claim must comply with the formal requirements set out in Article 319 of the Brazilian Code of Civil Procedure

(BCPC) and include the following elements:

I – Identification of the court before which the claim is being filed; II – Minimum information to identify the parties, including: full name or corporate name; marital status and existence of a civil union (if applicable); profession; Taxpayer Identification Number (CPF/CNPJ); email address; and full residential or business address; III – The factual and legal grounds of the claim; IV – The specific relief sought, including its details and scope; V – The estimated amount in dispute; VI – The evidence on which the claimant intends to rely to prove the alleged facts; and VII – A statement of whether the claimant is willing to participate in a conciliation or mediation hearing.

Pursuant to Article 320 of the BCPC, the claimant must also submit, along with the initial petition, all documents deemed indispensable to support the claim.

As a general rule, the burden of proof lies with the claimant. However, Article 373, § 1 of the BCPC grants the judge discretion to reverse the burden of proof when appropriate, based on the specific factual allegations and the comparative technical or informational capacities of the parties.

This principle is frequently applied in consumer protection and environmental damage cases, both of which are commonly addressed through collective redress mechanisms. In such cases, Brazilian courts often shift the evidentiary burden to the defendant. This is supported by: Article 6, VIII of Law No. 8,078/1990, which expressly allows for reversal of the burden of proof in favour of the consumer; and Precedent 619 of the Superior Court of Justice (STJ), which establishes that in environmental claims, the burden of proof may be reversed in light of the precautionary principle.

Noteworthy judgments that illustrate the application of these principles include: STJ, 1st Panel, REsp No. 1.997.103/SC, Reporting Justice Paulo Sérgio Domingues, adjudicated on 26 February 2024; STJ, 1st Panel, REsp No. 1.523.674/RS, Reporting Justice Sérgio Kukina, adjudicated on 3 October 2023; STJ, 1st Panel, REsp No. 2.052.112/MS, Reporting Justice Regina Helena Costa, adjudicated on 14 September 2023.

## 18. What other mandatory procedural requirements apply to these types of matters?

Beyond the formal requirements for filing (see Question 17), collective redress proceedings in Brazil are governed by specific mandatory procedural rules aimed at

protecting the public interest, ensuring due process, and preserving the integrity of collective mechanisms. These include:

#### 1. Adequate Standing and Institutional Purpose for Associations

Under Article 5, V of Law No. 7,347/1985, civil associations interested in pursuing a collective claim must: be legally incorporated for at least one year before filing the claim; and have an institutional purpose directly related to the rights being defended (STJ, 2nd Panel, REsp 1.286.130/SP, Rel. Min. Herman Benjamin, judged on 28 Feb 2012 – The STJ confirmed the need for a clear connection between the association's statutory purposes and the rights asserted in the collective claim).

#### 2. Mandatory Notification of the Public Prosecutor's Office

Under Article 5, §1 of Law No. 7,347/1985, the Public Prosecutor's Office (Ministério Público) must be notified in all collective proceedings. This applies even if it is not a party to the claim. Failure to notify may lead to nullity of the proceedings (STJ, 1st Panel, REsp 1.105.894/PR, Rel. Min. Arnaldo Esteves Lima, judged on 28 Oct 2010 – The judgment affirmed that lack of intervention by the Public Prosecutor renders the proceeding procedurally flawed).

#### 3. No Requirement of Class Certification

Unlike in common law systems, Brazil does not require class certification. Collective proceedings may be filed directly by authorised claimants without prior notice to potential beneficiaries or judicial approval of the class composition. This flows from the public interest nature of the action and the representative standing model in Brazilian law. See also: STJ, 1st Panel, REsp 1.391.198/SP, Rel. Min. Benedito Gonçalves, judged on 25 Jun 2015 – distinguishing Brazilian collective procedure from the North American certification model.

#### 4. Exemption from Security for Costs

Entities with public standing (e.g., Ministério Público, Defensoria Pública, and public interest civil associations) are exempt from providing security for costs or injunction bonds (as per Article 1, §4 and Article 18 of Law No. 7.347/1985. See also STJ, 2nd Panel, REsp 1.103.109/SP, Rel. Min. Eliana Calmon, judged on 9 Jun 2010 – Reinforcing that public entities filing collective claims are not required to deposit security for injunctive relief).

#### 5. Publication and Publicity

As set in Article 94 of the Consumer Protection Code

(CDC), and Article 5, §6 of Law 7.347/1985, judgments and settlements must be publicised adequately to allow affected individuals to benefit from or challenge the decision. The court may determine the form and extent of publicity, particularly in large-scale cases.

#### 6. Judicial Supervision of Settlements

Any proposed settlement must be approved/ratified by the judge, who must assess its adequacy in light of the public interest. The Public Prosecutor's Office must be heard before approval is granted (STJ, 2nd Panel, REsp 1.371.696/SP, Rel. Min. Herman Benjamin, judged on 10 Mar 2015 – Reaffirmed the supervisory role of the court in reviewing collective settlements to ensure fairness and legitimacy).

### 19. Are normal civil procedure rules applied to these proceedings or a special set of rules adopted for this purpose?

Public civil actions (CPAs) in Brazil are governed by a specific legal framework, notably Federal Law No. 7,347/1985 (CPA Law), which establishes the legal grounds for collective redress in cases involving diffuse, collective, or homogeneous individual rights. While this statute provides the substantive basis for collective proceedings and specific procedural provisions, the procedural aspects are generally governed by the Brazilian Code of Civil Procedure (CPC), which applies subsidiarily unless in conflict with a specific provision in the CPA Law.

It means that there is no entirely autonomous procedural code for CPAs; instead, a hybrid model is adopted. Key procedural innovations include more flexible standing rules (enabling public prosecutors and recognised civil society entities to bring claims), rules on res judicata with erga omnes or ultra partes effects depending on the nature of the right at stake, and a distinct approach to evidentiary burdens depending on the matter discussed (e.g., environmental damage).

### 20. How long do these cases typically run for?

The duration of CPAs in Brazil varies depending on the complexity of the case and the number of parties involved. In general, however, these proceedings are lengthy, which largely occurs due to procedural rules applicable to public entities, which benefit from doubled deadlines.

Additionally, some matters debated under CPAs (e.g.,



environmental disputes) may represent complex cases and often require judicial technical expert evidence, which may involve multiple rounds of party submissions, requests for clarification, and supplementary opinions, further delaying resolution.

According to the latest data published by the Brazilian National Council of Justice (CNJ), the average duration of civil proceedings in Brazil is four years and three months. CPAs tend to last significantly longer, particularly those involving complex issues or environmental damage.

Although the widespread adoption of electronic case management—now applied to over 99% of new filings—has improved procedural efficiency, it has not eliminated the structural delays often seen in collective proceedings.

## 21. What remedies are available to claimants in class action or collective redress proceedings?

Brazilian law does not differentiate between the remedies available in individual proceedings and those available in class actions or collective redress mechanisms. Instead, the same forms of relief established under the Brazilian Civil Procedure Code (BCPC) and other relevant statutes—such as the Consumer Protection Code (CDC) and Law No. 7,347/1985 (Public Civil Action Law)—apply uniformly to both types of claims.

Among the principal remedies available in collective proceedings are injunctive reliefs and interlocutory measures aimed at preventing or ceasing conduct that causes or threatens collective harm. These may take the form of specific judicial orders compelling the defendant to perform a certain action (obligation to do) or to refrain from engaging in unlawful or harmful conduct (obligation not to do). To ensure compliance with such orders, courts may impose daily coercive fines (*astreintes*), as provided under Article 536 of the BCPC.

Compensatory remedies are also available in collective claims, particularly when there is identifiable patrimonial or non-patrimonial damage. In such cases, courts may order defendants to provide full redress, which can include monetary compensation for damages or the restoration of the pre-existing state of affairs. When the affected individuals cannot be individually identified—especially in cases involving diffuse rights—any amounts awarded by the court may be allocated to the Fund for the Defence of Diffuse Rights (FDD), in accordance with Article 13 of Law No. 7,347/1985.

In addition to compensatory and injunctive relief, courts may issue declaratory judgments affirming the existence of a violation or legal right, as well as constitutive decisions capable of altering a legal relationship—such as invalidating unlawful administrative or contractual acts. In more complex or systemic matters, particularly those involving public services, human rights, or environmental harm, structural remedies may also be ordered. These can include judicially supervised action plans, compliance programmes, and continuous monitoring mechanisms intended to reform institutional practices and prevent recurrence of the harmful conduct.

Brazilian case law recognises and supports the use of such remedies in collective redress. For instance, in REsp 1.657.156/SP, the Superior Court of Justice confirmed the appropriateness of both compensatory and performance-based remedies, enforceable through coercive sanctions. Likewise, in REsp 1.243.887/PR, the Court affirmed the use of public civil actions as a legitimate means to seek both injunctive and compensatory relief in consumer protection cases.

## 22. Are punitive or exemplary damages available for class actions or collective redress proceedings?

Punitive or exemplary damages, as understood in common law jurisdictions, are not expressly recognised under Brazilian law. The Brazilian legal system is based on civil law traditions and adheres to the principle of full reparation, whereby damages awarded aim to compensate the harm suffered and restore the status quo ante, rather than to punish the wrongdoer or deter future conduct through exemplary sums.

However, in practice, Brazilian courts may award moral damages in amounts that serve a dual function: compensatory and deterrent. This occurs particularly in cases of egregious or repeated unlawful conduct, such as environmental degradation, consumer rights violations, and human rights abuses. Although these awards are formally grounded in the concept of compensation, some judicial decisions explicitly acknowledge their pedagogical or dissuasive effect, thereby blurring the lines with what would be considered punitive damages in other jurisdictions.

In collective redress proceedings, moral damages can be awarded on a collective basis, especially in relation to diffuse and collective interests, with the compensation often directed to public funds such as the Fund for the Defence of Diffuse Rights (FDD) when individual beneficiaries cannot be identified. Courts may also

impose coercive fines (astreintes) to ensure compliance with judicial orders, though these serve an enforcement rather than punitive purpose.

Therefore, while punitive damages as a legal category do not formally exist in Brazil, certain remedies in collective actions may, in practice, have a similar deterrent effect, particularly when moral damages are set at levels that exceed mere compensation.

### 23. Is a judge or multiple judges assigned to these cases?

In Brazil, a single judge is primarily responsible for overseeing and conducting class actions or collective redress proceedings. This judge plays a central role throughout the litigation process, handling both factual and legal aspects of the case. The judge is tasked with managing the procedural steps, assessing the evidence presented by the parties, and issuing rulings on various motions and requests made during the course of the proceedings.

In terms of legal matters, the single judge is also responsible for interpreting and applying the law to the facts of the case. This includes analysing relevant statutes, regulations, and case law to determine the proper legal framework for resolving the dispute. The judge must ensure that the collective redress is aligned with the legal protections afforded to the affected individuals or groups, and decide on the applicability of legal doctrines, such as the precautionary principle in environmental cases or consumer protection laws in class actions related to consumer rights.

While the single judge is responsible for both factual and legal determinations, when the case reaches a higher court, such as a Court of Appeals or the Superior Court of Justice (STJ), the role of the judiciary shifts to focus exclusively on matters of law. Panels of appellate judges in these courts will review the legal interpretations made by the lower court judge to ensure consistency with the law and address any potential legal errors. The appellate courts do not revisit the factual findings of the original case, but instead evaluate whether the law was applied correctly.

In some instances, the Public Prosecutors (Ministério Público) may be called upon to provide a non-binding opinion on matters related to the case as *custos legis* (guardians of the law). This opinion helps guide the court but does not carry the force of a formal decision. The Public Prosecutors' role is typically limited to ensuring that collective rights are properly represented, especially

when the case involves significant public interests.

### 24. Are class actions or collective redress proceedings subject to juries? If so, what is the role of juries?

Collective claims in Brazil are not subject to juries.

### 25. What is the measure of damages for class actions or collective redress proceedings?

In Brazil, the measure of damages in class actions or collective redress proceedings is designed to provide full compensation to those claiming to have suffered harm, in line with the provisions of the Brazilian Civil Code ("BCC"). Article 944 of the BCC sets forth that compensation must be determined based on the extent of the damage suffered. There are two principal categories of damage in Brazilian law: material (patrimonial) damage and moral (non-patrimonial) damage.

For material damage, the compensation typically covers both immediate losses and any loss of earnings directly resulting from the damaging event. This is in accordance with Article 402 of the BCC, which ensures that all consequences of the wrongful act are considered in the compensation calculation, including tangible financial losses and the economic impact caused by the defendant's conduct.

In cases involving moral damage, which pertains to intangible harm such as emotional distress, psychological suffering, or reputational damage, Brazilian courts often apply a two-step methodology to quantify the amount of compensation. The Superior Court of Justice (STJ) has established this methodology, which is generally used to guide the assessment of moral damages in collective actions, such as in Special Appeal 959.780/ES. The first step involves reviewing similar cases to establish a standard value for the damage based on prior rulings. The second step allows the judge to adjust this standard amount by considering several factors specific to the case, including the severity of the violation, the culpability of the defendant, the extent of harm caused, the economic capacity of the parties, and any concurrent fault of the claimant. While this two-step method is common, it is not rigidly applied in every instance, as courts may use different approaches depending on the nature of the case, particularly in matters related to consumer law, environmental protection, health issues, or labour law.

For example, in class actions concerning consumer rights

violations or environmental damage, courts may consider public interest and the impact on the community in assessing damages. This can result in higher moral damage awards, especially when the violation involves systemic or large-scale harm affecting many individuals or the environment.

The Brazilian approach to damages in class actions is rooted in the idea of full redress for the harm suffered, ensuring that victims are compensated not only for the direct financial losses incurred but also for non-material harm. While there is no concept of punitive damages in Brazilian law, the level of compensation, particularly for moral damages, can serve a deterrent function, encouraging defendants to take greater care in their conduct to prevent future violations.

## 26. Is there any mechanism for the collective settlement of class actions or collective redress proceedings?

In fact, Brazilian law allows for the settlement of public civil actions (CPAs) through a specific instrument known as the Conduct Adjustment Agreement (Termo de Ajustamento de Conduta – TAC), provided for under Article 5, §6 of the CPA Law.

The TAC is a consensual instrument negotiated between the defendant and a public entity legally authorised to represent collective interests, such as the Public Prosecutor's Office or public defenders. Its purpose is to ensure the cessation of unlawful conduct and the reparation of damages to the collective or to individuals whose rights were similarly affected.

Unlike typical private settlements, the TAC has a quasi-regulatory character and often includes forward-looking obligations, oversight mechanisms, and penalty clauses in case of non-compliance. It may be used to resolve disputes involving diffuse, collective, or homogeneous individual rights—particularly in areas such as consumer protection, environmental harm, and public health.

While the CPA Law does not provide detailed procedural rules for these agreements, their enforceability is subject to judicial review and ratification, which usually takes place when the court terminates the case on the merits.

The TAC produces binding effects not only for the signatory parties but also for third parties affected by the same harmful event, provided the CPA concerns homogeneous individual rights. Individuals may also rely on the terms of the agreement to claim their rights in subsequent simplified proceedings.

Over the past decade, TACs have become a widely adopted mechanism to enhance access to justice in collective disputes, promoting effective remedies while avoiding the delays commonly associated with complex collective litigation.

## 27. Is there any judicial oversight for settlements of class actions or collective redress mechanisms?

Settlements reached in the context of public civil actions (CPAs), including Conduct Adjustment Agreements (TACs), are subject to judicial review. The court where the CPA is pending must assess whether the terms of the settlement comply with applicable legal standards and adequately safeguard the rights and interests at stake (in line with Articles 190 and 840–850 of the Brazilian Civil Code).

If the court finds the agreement valid and in line with the collective interest, it will ratify the settlement, granting it binding and enforceable effect in respect of both the signatory parties and third parties whose rights are encompassed by the TAC.

In cases where the settlement does not fully resolve all claims raised in the CPA, the court may partially approve the agreement. In such instances, the proceedings will continue with a partial judgment on the merits concerning the remaining issues.

Judicial oversight in this context plays a crucial role in ensuring that collective settlements do not undermine access to justice, disproportionately favour one party, or exclude affected individuals from the benefit of the negotiated resolution.

## 28. What are the top three emerging business risks that are the focus of class action or collective redress litigation?

Class action and collective redress litigation in Brazil have historically focused on areas such as consumer protection, product liability, environmental harm, and public health. In recent years, however, the following emerging business risks have gained increasing relevance:

(i) Environmental and climate-related liability: Companies involved in large-scale environmental disasters—such as tailings dam failures, deforestation, or industrial pollution—are increasingly subject to collective actions brought by affected communities, individuals, or small

businesses. These proceedings often seek redress for material damages, health impacts, loss of livelihood, and broader ecological harm. Climate litigation is also gaining traction, particularly in cases involving failure to mitigate environmental risks or to comply with ESG-related duties.

(ii) Data protection and cybersecurity incidents: As data privacy legislation evolves in Brazil—particularly with the entry into force of the General Data Protection Law (LGPD)—collective actions arising from data breaches have intensified. Claims may be grounded in unauthorised disclosure, insufficient cybersecurity measures, or the misuse of personal data, especially when sensitive information such as financial, health, or biometric data is involved.

(iii) Misleading commercial practices and greenwashing: Collective litigation is also expanding in response to deceptive advertising and unfair commercial conduct. Recent cases include greenwashing claims, where companies make unsubstantiated or exaggerated environmental claims to promote products or services. This trend reflects growing consumer awareness and increased regulatory scrutiny of ESG disclosures and corporate sustainability claims.

## 29. What trends in litigation are evident in the last three years in your jurisdiction in respect of class actions?

Over the past three years, Brazil has witnessed a steady increase in the use of class actions to address complex societal, environmental, and consumer-related issues. Several trends have emerged:

(i) Expansion of ESG-related litigation: There has been a marked rise in collective claims relating to environmental disasters, violations of indigenous or traditional community rights, and failures to comply with climate or sustainability standards. These actions are often grounded in both constitutional rights and sector-specific regulations.

(ii) Growth in data privacy and digital rights cases: Following the implementation of Brazil's General Data Protection Law (LGPD), courts have begun to see collective claims arising from personal data breaches and the misuse of personal information, particularly in the health, finance, and telecom sectors.

(iii) Increasing involvement of civil society organisations and strategic litigation actors: Public interest groups have played a greater role in initiating class actions and in shaping litigation strategy. There has been a growing use

of collective redress as a tool for broader public policy impact, especially in areas such as racial equality, gender-based discrimination, and access to essential services.

## 30. Where do you foresee the most significant legal development in the next 12 months in respect of collective redress and class actions?

The most significant legal developments expected in the coming year relate to the intersection between collective redress and emerging technologies. In particular, courts and public authorities are preparing to address the legal implications of artificial intelligence, automated decision-making systems, and algorithmic discrimination.

Regulatory bodies and public prosecutors have already begun issuing recommendations to ensure AI-based systems comply with constitutional and consumer protection principles. This is likely to give rise to novel collective claims in areas such as credit scoring, targeted advertising, and automated public services.

Additionally, ongoing legislative debates may lead to reforms in Brazil's collective redress framework, with proposals to enhance procedural efficiency, broaden standing, and clarify the scope of judicial oversight in large-scale settlements.

## 31. Are class actions or collective redress proceedings being brought for 'ESG' matters? If so, how are those claims being framed?

While Brazil's Public Civil Action (CPA) mechanism does not explicitly reference Environmental, Social, and Governance (ESG) matters, it has been increasingly utilised to address ESG-related issues. Claims are typically framed under existing legal frameworks that protect diffuse, collective, and homogeneous individual rights.

Environmental claims often involve actions against companies responsible for significant ecological harm, such as deforestation or pollution. These cases are grounded in environmental legislation and constitutional provisions safeguarding the environment.

Social claims have emerged, focusing on labour rights violations and discriminatory practices. For instance, lawsuits have been filed against corporations for alleged exploitative labour conditions, invoking constitutional rights and labour laws.

Governance-related claims are developing, particularly concerning corporate transparency and accountability. Shareholders have initiated CPAs based on Law No. 7,913/1989, seeking redress for damages caused by misleading disclosures or governance failures.

Notably, recent litigation has sought compensation for climate-related damages, quantifying greenhouse gas emissions and their social costs, thereby integrating climate accountability into the legal discourse.

### 32. Are there any proposals for the reform of class actions or collective redress proceedings? If so, what are those proposals?

There are ongoing legislative discussions in the Brazilian National Congress aimed at reforming the Public Civil Action (CPA) Law. Three key bills—Nos. 4,778/2020, 4,441/2020, and 1,641/2021—seek to substantially amend the current framework or introduce a new consolidated law. These proposals are being jointly assessed, following a vote rendered by Representative Helder Salomão on 16 October 2023, who encouraged the consolidation of the proposed amendments into a single draft.

Highlighted points from these proposals include:

- **Increased participation of regulatory agencies**, either by summoning them to provide opinions on matters within their regulatory scope or by allowing them to act as *amicus curiae* (Bills 4,778/2020, 4,441/2020 and 1,641/2021);
- **Express provisions on settlements in CPAs**, including guidance for court oversight and formal recognition of both Conduct Adjustment Agreements (TACs) and **new forms of collective agreements** (Bills 4,441/2020 and 1,641/2021);
- **Rules on the suspension of individual claims during the CPA proceedings**, unless the individual expressly opts to proceed separately and does not reverse that option before judgment (Bills 4,441/2020 and 1,641/2021);
- **Clarification that the filing of a CPA interrupts the statute of limitations** for both individual and collective claims based on the same facts (Bills 4,441/2020 and 1,641/2021); and
- **Expansion of the CPA's scope to encompass diffuse, collective, and individual rights, including claims for collective non-material damages** (Bill 1,641/2021).

As of April 2025, the consolidated draft remains under review by the Chamber of Deputies. Its approval would represent a significant step forward in strengthening and systematising collective redress in Brazil.

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