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Mexico

Class Actions

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

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Mexico: 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 Mexico, individuals whose rights and interests have been affected in the context of the consumption of private or public goods and services, environmental matters, or competition law issues may pursue collective actions. Article 17 of the Mexican Constitution provides for this possibility, aiming to ensure effective access to justice and to strengthen claimants' bargaining power by enabling them to act collectively against corporate entities.

The procedural regulation of collective actions is contained in the Federal Code of Civil Procedure ("FCCP"). However, by no later than 1 April 2027, the provisions of the National Code of Civil and Family Procedure ("NCCFP") will come into force, unless the Federal Congress declares an earlier date of effectiveness as per the Second Transitory Article of the Decree enacting the NCCFP. Consequently, this response refers to the relevant provisions of both legal codes to ensure up-to-date coverage.

The applicable substantive law for collective actions depends on the subject matter of the claim – be it environmental, civil, or economic competition law.

Nonetheless, the procedural rules governing collective actions in Mexico impose an excessive burden of requirements, which renders their access particularly challenging.

For instance, under Article 591 of the FCCP, the admission of a collective action claim is only granted following a preliminary phase of pleadings between the parties – an onerous prerequisite that discourages claimants from initiating such actions despite their constitutional entitlement. Fortunately, this preliminary stage has been eliminated under the new NCCFP.

2. What is the history of the development of the

class actions/collective redress mechanism and its policy basis in your jurisdiction?

The legal basis for collective actions dates back to 29 July 2010, when a constitutional reform to Article 17 was published in the Official Gazette of the Federation ("OGF"), introducing a fourth paragraph that mandates the Federal Congress to enact legislation governing collective actions.

The explanatory memorandum dated 7 February 2008 leading to this constitutional amendment noted the need to move away from an individualistic approach to procedural law and to incorporate group actions, which had already proven effective in comparative legal systems.

Subsequently, on 30 August 2011, the reform to the FCCP was published in the OGF. This reform introduced the regime for collective actions in "Book Five – On Collective Actions", encompassing Articles 578 to 626.

However, it must be noted that collective actions were not formally incorporated into the Mexican legal system until 2011. Prior to this, some scholars argue that their origins can be traced to the agrarian law sector in the 1960s, and certain provisions in the Federal Consumer Protection Law of 1992, although the latter were seldom applied in practice.

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?

Although precise figures are unavailable, it is estimated that around 25 collective actions were filed in Mexico in 2024. This estimate derives from a search conducted through the Federal Judiciary Council ("FJC") Rulings Search Engine.

By contrast, according to statistics published by the FJC, 669 civil proceedings per 100,000 inhabitants were filed in the same year before Federal District Courts. As such, collective actions remain rarely utilised within the Mexican legal system.

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

The most frequent collective actions pertain to consumer disputes involving standard-form contracts, which fall under the exclusive jurisdiction of Federal District Courts, as provided in the recently enacted Organic Law of the Federal Judiciary ("OLFJ"), published in the OGF on 20 December 2024.

According to the Federal Consumer Protection Agency ("PROFECO"), its active and enforcement-stage collective actions mainly relate to disputes involving housing sales, travel services, medical products, and electronic fuel equipment.

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

Pursuant to Articles 579 and 580 of the FCCP, or Articles 855 and 856 of the NCCFP, a collective action is a procedural mechanism for the protection of diffuse or collective rights and interests, or individual rights with collective relevance.

Diffuse and collective rights are indivisible in nature and pertain to an indeterminate or determinable group linked by common factual or legal circumstances.

Conversely, individual rights of collective relevance are divisible, belonging to identifiable individuals within a group, connected through shared legal characteristics.

In simplified terms, a collective action is a legal vehicle that allows the aggregation of claims arising from common circumstances into a single proceeding, in pursuit of judicial redress.

6. What are the general 'triggers' for commencement of a class action or collective redress in your jurisdiction from a factual perspective?

The presence of harm to the collective within the spheres of consumer rights, environmental protection, or competition law.

The First Chamber of the Supreme Court of Justice of the Nation ("SCJN") has defined consumer relations as economic transactions of a commercial or financial nature between parties on an equal footing, arising within the dynamics of market economies.

Furthermore, the SCJN has ruled that such relations entail a legal bond between a provider of goods or services and a final consumer or user, grounded in reciprocal obligations. This includes pre-contractual acts that may influence purchasing decisions or service engagements.

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

A decree published in the OGF on 20 December 2024 amended Article 28 of the Federal Constitution, effectively dismantling eight autonomous bodies, including the Federal Economic Competition Commission ("COFECE") and the Federal Telecommunications Institute ("IFT"), both of which played significant roles in collective actions.

The responsibilities of COFECE and IFT concerning competition law will be transferred to a new regulatory entity under either a new competition law or amendments to existing legislation. However, such reforms have yet to be enacted by the Federal Congress. Thus, this information may soon change.

At present, COFECE, among other authorities, conducts investigations during which public harm may be identified. These findings may form the basis of a subsequent collective action.

In such cases, the court adjudicating the collective action will determine whether the damages alleged are attributable to the competition law infringement previously established in COFECE's final resolution.

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

Although there is no exhaustive statutory list, based on the requirements for establishing standing under Article 588(I) of the FCCP or Article 865(I) of the NCCFP, the causes of action in collective claims typically include:

- Acts or omissions that harm consumers or users of goods or services;
- Environmental damage;
- Harm resulting from unlawful concentrations or monopolistic practices as confirmed by final resolutions issued by COFECE or IFT (the latter being newly introduced under the NCCFP).

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

Mexican law recognises the following categories of collective actions for the protection of group rights or interests:

- **Diffuse Actions:** These are indivisible in nature and aim to protect an indeterminate group. The remedy sought is the restitution in kind, or alternatively, compensatory damages.
- **Strict Collective Actions:** Also indivisible, but pertaining to a determinate or determinable group linked by a specific legal relationship. The objective is individualised redress via restitution in kind or, subsidiarily, monetary compensation.
- **Homogeneous Individual Actions:** These are divisible and arise from individual rights of collective relevance that share common characteristics. They typically concern contractual disputes, seeking specific performance or rescission of the contract, along with the corresponding remedies under the applicable law.

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

Pursuant to Article 585 of the FCCP, currently in force, the following parties have legal standing to initiate a collective action: (i) PROFECO; (ii) the Federal Attorney for Environmental Protection ("PROFEPA"); (iii) the National Commission for the Protection and Defence of Financial Services Users ("CONDUSEF"); (iv) COFECE; (v) a representative of a group comprising at least 30 individuals; (vi) civil associations authorised by the FJC; and (vii) the Attorney General of the Republic.

Under Article 862 of the NCCFP, the following parties are entitled to bring a collective action: (i) PROFECO; (ii) PROFEPA; (iii) CONDUSEF; (iv) COFECE; (v) IFT, in matters of competition; (vi) a common representative integrating a group of at least 15 individuals; (vii) civil associations authorised by the FJC; (viii) the Attorney General of the Republic; and (ix) the Federal Institute for Public Defence.

Whilst we commend the work of civil associations that support the causes they engage with, we note the importance of professionalising their oversight by means of objective criteria that enable the FJC to ensure they are suitably qualified to represent collectives from a professional and operational standpoint.

It is imperative to ensure on an ongoing basis that their members possess the requisite knowledge to act on

behalf of the association in the actions pursued in line with its purpose; and, naturally, that operational independence is guaranteed, for which purpose it is appropriate to supervise their funding sources and internal measures to prevent conflicts of interest, whether directly or through their members, among other considerations.

The right to proper representation of the collective is entrusted to civil associations, which file the majority of such actions, hence the need for the FJC to ensure their professionalism and operational autonomy.

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

Mexican law does not expressly provide for any limitations based on the nationality or domicile of the claimants.

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

Where a group seeks to bring a strict collective action or a homogeneous individual action under the FCCP, it must comprise at least 30 individuals. However, this threshold is reduced to 15 individuals under the new NCCFP.

An illustrative example is found in the non-binding legal opinion with digital registration number 2011868, issued by the Administrative and Civil Collegiate Court based in the State of Coahuila. It held that, in order to activate the action provided for in Article 28 of the Federal Law on Environmental Liability – which seeks to establish liability for environmental harm and to mandate the reparation and compensation of such harm where applicable – it is not necessary to have at least 30 affected community members participating, as is required in collective actions.

We concur with this interpretation, given that these are distinct actions despite certain similarities, and imposing restrictive criteria hinders access to justice.

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

Among the common requirements that must be demonstrated by the group under Articles 587, sections VI and IX of the FCCP or 864, sections VII and X of the NCCFP are that its members share common ground of

fact or law, and that the violated right or interest be clearly identified.

It is also noteworthy that both the group and the authorised civil associations must ensure adequate representation throughout the proceedings. As stated in Article 586 of the FCCP or 863 of the NCCFP, such representation must be diligent and in good faith, avoiding conflicts of interest with those they represent or any record of bad faith litigation.

Authorised civil associations must be registered in the Public Register of Civil Associations of the FJC, in accordance with Articles 619 to 621 of the FCCP or 896 to 898 of the NCCFP. As of April 2025, only 11 civil associations are registered in said register.

Complementing the response to Question 10, Articles 622 of the FCCP and 899 of the NCCFP establish that associations must avoid any situation where an associate, member, representative or director may face a conflict of interest in relation to the activities conducted; nonetheless, we reiterate the absence of objective criteria to identify and prevent such conflicts in practice.

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

Currently, Federal District Courts with civil jurisdiction are materially competent to hear collective actions under Article 55 of the OLFJ. Additionally, District Courts with commercial jurisdiction may also hear such actions pursuant to Article 56 of the OLFJ, once the NCCFP's collective actions regime is in force.

For the sake of judicial efficiency, the jurisdictional rules set out in the OLFJ concerning collective actions should be revised, given that they currently apply to subject matters which are dissimilar – for example, environmental and competition matters differ significantly in substance.

Accordingly, Articles 30 of the Federal Law on Environmental Liability and 134 of the Federal Economic Competition Law advocate for the establishment of specialised District Courts in environmental law and in economic competition, broadcasting, and telecommunications, respectively.

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

A major challenge for claimants lies in correctly identifying the nature of the collective action brought, as

precedent exists whereby claims have been dismissed for lack of such identification. One example is the recent decision by the Sixteenth District Court in the State of Mexico, based in Naucalpan de Juárez, dated 10 January 2024 in case file 1196/2024 (available in the FCJ's Rulings Search Engine), concerning the cancellation of a music concert. The consumers sought, inter alia, a refund of the sums paid, but the claim was dismissed on the grounds that the facts corresponded to a homogeneous individual action rather than the strict collective action selected by the claimant.

Strict procedural rules concerning standing and causation, along with stringent filing requirements, constitute hurdles to bringing collective actions.

Another obstacle is the practice of serving notice to members of the group via public announcements (edictos), due to the financial burden this may impose, and the lack of service may paralyse the collective action.

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

The system of collective involvement provided by both the FCCP and the NCCFP is an opt-in model – also referred to as voluntary representation – meaning that only individuals who have expressly joined the collective action will be bound by the resulting judgment. By contrast, the opt-out system implies that all affected individuals are bound by the judgment, except for those who have expressly excluded themselves.

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

A claim must be filed in compliance with the requirements of Article 587 of the FCCP or 864 of the NCCFP.

Additionally, pursuant to Article 588 of the FCCP or 865 of the NCCFP, the claimant must meet the requirements for causal standing, including: (i) acts causing harm to consumers or users of goods or services, to the environment, or to consumers due to anticompetitive conduct declared by final decision of COFECE (or IFT under the NCCFP); (ii) common factual or legal issues among the group members; (iii) a minimum of 30 or 15 group members, depending on whether the FCCP or NCCFP applies; and (iv) alignment between the subject matter of the action and the harm suffered by the group.

Furthermore, interpreted in the opposite sense, Article 589 of the FCCP or 866 of the NCCFP requires the claimant to meet the procedural standing criteria, including: (i) the group has granted consent to participate in a strict or homogeneous individual action; (ii) the challenged acts do not originate from administrative proceedings conducted as trials or from judicial proceedings (the NCCFP limits this to judicial proceedings only); (iii) the representation complies with applicable collective action regulations; (iv) the members of the group are identifiable or identified in strict or homogeneous individual actions, including the common circumstances of the harm; and (v) a collective action is a suitable means of resolving the dispute.

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

Class actions must be filed within a statutory period of 3 years and 6 months, with the understanding that if they involve immediate damages, the period will be counted from the date the damage occurred, and if they are of a continuous nature, from the last day the event took place. We have not identified precedents or guidelines that resolve the possible uncertainty regarding when the damage is considered to have occurred.

Additionally, we find it relevant that a final judgment, if not appealed, will have the effect of *res judicata*, as stipulated in Article 614 of the FCCP or 891 of the NCCFP.

There is a special regulation for the processing of precautionary measures, whose scope is broader than those applicable in general civil lawsuits, as per Article 611 of the FCCP or 888 of the NCCFP. These measures may relate to acts that involve an imminent and irreparable threat to social interests, the life or health of the community, even extending to situations where national security is considered at risk.

The regime for costs and expenses, as outlined in Articles 616 to 618 of the FCCP or 893 to 895 of the NCCFP, is also special. The guiding principle is that each party assumes its own costs, and regarding the legal fees for the representative of the collective, there is a limitation consisting of the establishment of a tariff distributed as follows:

- Principal Amount in Liquid Units of Measurement ("UMA's") (equivalent to 2025 value of \$113.14 Mexican pesos):
 - Up to 200,000 UMA's: Up to 20%
 - From 200,001 to 1,999,999 UMA's: Up to 20% for the first 200,000 UMA's and 10% for the excess

- 2,000,000 UMA's: Up to 11% for the first 2,000,000 UMA's and 3% for the excess

Fees are paid between the plaintiff and the administration fund that the FJC manages as per Article 618 of the FCCP or 895 of the NCCFP.

Finally, it is also important to highlight that it is not permissible to consolidate an individual action and a collective action when they share the same cause of action, as prohibited by Article 613 of the FCCP or 890 of the NCCFP.

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

Special rules contained in the "Fifth Book of Collective Actions" of the FCCP, from Articles 578 to 626, apply. This regulation consists of a unique title developed through eleven chapters corresponding to the following titles:

- "Chapter I General Provisions"
- "Chapter II Active Standing"
- "Chapter III Procedure"
- "Chapter IV Judgments"
- "Chapter V Precautionary Measures"
- "Chapter VI Enforcement Measures"
- "Chapter VII Relationship between Collective Actions and Individual Actions"
- "Chapter VIII Res Judicata"
- "Chapter IX Costs and Expenses"
- "Chapter X Associations"
- "Chapter XI The Fund"

In the NCCFP, its regulation is included in the "Sixth Book of Collective Actions" under a "Single Chapter General Provisions" with three sections:

- "Section One Active Standing"
- "Section Two The Procedure"
- "Section Three The Judgments" which corresponds to Articles 855 to 903.

20. How long do these cases typically run for?

It is impossible to estimate a specific duration for such actions due to their complexity, the filing of ordinary and extraordinary appeals during their processing, the possibility of requesting precautionary measures, and the right of consumers to join the case — which remains valid even up to 18 months after the agreement is formalized or the judgment becomes *res judicata* under Article 594 of the FCCP (which, according to Article 871 of the

NCCFP, this period is 2 years). Furthermore, procedural deadlines may be extended by the judge for justified reasons.

For these reasons, these cases generally take several years.

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

The remedies applicable in a class action judgment can be found in Articles 604 and 605 of the FCCP or 881 and 882 of the NCCFP, and they vary according to the nature of the action.

In the case of a diffuse action, the court can only apply the remedy of damage repair, primarily through restitution in kind, which allows for the defendant to be required to perform or refrain from certain actions. If this is not possible, the repair will be ordered through equivalent compensation for indemnification.

If it is a strict collective action or homogeneous individual action, the remedy corresponds to damage repair through the performance of actions or abstention and covering the damages individually for the members of the collective.

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

Yes, because the regime for extracontractual liability under the Federal Civil Code applies in class actions, and it is possible to claim compensation for moral damage as regulated in Article 1916 bis, to which Mexican jurisprudence added a punitive aspect.

The origin of the jurisprudential doctrine of punitive damages is found in the direct amparo rulings 30/2013 and its related 31/2013, issued by the First Chamber of the SCJN.

According to this doctrine, when quantifying compensation for moral damage, various factors related to the infringer must be analyzed, such as their degree of responsibility, including the seriousness of their conduct, the type of risk involved, the degree of negligence, and the social relevance of the act, with the results being weighed according to the available scales of mild, medium, and high.

We briefly express our opposition to the recognition of punitive damages in Mexico, as it relies on indeterminate

legal concepts that negatively impact the human right to legal security, which is even more relevant when applying penalties (essentially punitive damages), as well as other constitutional principles. Furthermore, it undermines the civil responsibility function of repairing the actual harm caused to the victim.

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

Class actions are decided by the judge in charge of the corresponding District Court, which may change if, during the processing of the case, appeals are filed that require the case to be elevated to the Collegiate Court of Appeals, Circuit Court, or even the SCJN.

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

In Mexico, there is no jury system.

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

Damages in the Mexican legal system are compensated according to their actual causation and demonstration, corresponding to the notion of "compensable damage," under which only certain or existing damages are repaired through the indicated remedies of restitution in kind or indemnification.

Without involving the rules for distributing the burden of proof in general lawsuits, the existing damage is the one that the plaintiff is obligated to prove with its scope.

Additionally, the damage claimed must be attributable to the responsible party, and there must be a causal link between their action or omission and the result.

These points must be applied to achieve total restitution for the victim, which also implies not overcompensating the victim, as it is prohibited by the institution of unjust enrichment as defined in the country's civil codes.

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

Yes, Article 595 of the FCCP or 872 of the NCCFP provides for the holding of a preliminary conciliation hearing in which the judge will propose solutions to the dispute and

encourage the parties to resolve it amicably. The judge may even call upon experts to assist if deemed necessary.

It is worth noting that settlements can take place up until the definitive resolution of the case.

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

Yes, before approving the parties' settlement, the judge will review its legality after hearing from the public officials authorized to promote class actions under Article 585 of the FCCP or 862 of the NCCFP and, if necessary, from the members of the collective involved in the settlement.

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

The release of defective products and the provision of deficient services, industrial activities involving transformation processes that may harm the environment, and commercial practices affecting consumers in the context of economic competition.

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

In October 2024, it was reported that COFECE initiated a class action for price-fixing and manipulation in the distribution of medicines.

Additionally, in recent years, there has been an increase in class actions related to environmental damage linked to climate change, environmental pollution, and other similar cases.

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

We live in a globalised and rapidly evolving digital world, which has led to the massification of consumer relations.

It is virtually impossible to compile a list of the consumption of financial or technological services offered in the market, as well as the products placed on

the market.

Therefore, we believe that the largest group actions will develop in this area.

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

In environmental matters, a notable class action was initiated by the Collective of Holders of the Human Right to a Healthy Environment for Development and Well-being of People, against various federal environmental authorities and permit holders for damages caused by the release of genetically modified maize organisms into the environment. This case reached the First Chamber of the SCJN twice, the most recent of which led to the issuance of the Amparo Judgment in Review 1023/2019, confirming the imposition of precautionary measures in the collective action, preceded by an interesting analysis on the constitutionality of Articles 585, 610, 611, among others, of the Federal Criminal Procedure Code.

In governance matters, the recent class action promoted by COFECE in which it sued three pharmaceutical distributors for damages caused to the public due to improper price fixing and manipulation in the distribution of their products, which, according to media reports, was dismissed and then dismissal was challenged by the claimant, and is currently pending before the Second Chamber of the SCJN.

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

The NCCFP, which came into effect on 8 June 2023, foresees a regime for class actions that will become law-of-the-land no later than 1 April 2027.

Among the new features of this new regulation on class actions, we briefly highlight that the IFT will now also have standing in matters of economic competition (still in existence when this publication is issued), in accordance with its Article 862, Section I.

We also celebrate the removal of the process of submissions between interested parties, as provided for in Article 591 of the FCCP, as a decisive requirement to reach the stage of issuing the order admitting the claim.

The number of individuals in the legitimised collective to promote a class action has been reduced from 30 to 15,

and the period for joining after the final resolution of the action has been extended from 18 months to 2 years, among other relevant aspects.

And, very importantly, the improvement of the notification system to be carried out to the members of the collective

during the course of the class action. Under the FCCP regulation, the possibility of ordering notifications through the publication of edicts was costly and hindered its progress or, simply, discouraged the promotion of such actions.

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