

## The Netherlands

### Contributor



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# The Netherlands: 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.

Dutch law has provided for a collective redress mechanism for quite some time now. Broadly speaking there are three collective redress mechanisms in the Netherlands: (i) WAMCA actions; (ii) WCAM settlements; and (iii) bundled claims (also: group actions).

First, Dutch law allows foundations or associations with full legal capacity (a "Representative Organisation") to bring a collective action to protect the similar interests of a defined group (Article 3:305a Dutch Civil Code, "DCC"). On 1 January 2020 the Mass Damages in Collective Action Act ("WAMCA") came into effect, amending Article 3:305a DCC in certain important ways. Under the WAMCA regime, the Representative Organization can claim damages (*schadevergoeding*) on behalf of a group. The WAMCA provides an opt-out system, meaning that all group members are bound by the judgment unless they opt out during a court-determined period. WAMCA claims are governed by specific procedural rules in Title 14a of the Dutch Code of Civil Procedure ("DCCP"), which supplement or deviate from standard rules where necessary. We further note that WAMCA proceedings can also concern general or public interest claims (*algemeenbelangacties*), in which there is not a well-defined group.

The WAMCA regime applies to collective actions that (i) are filed after 1 January 2020, and (ii) relate to an event or a series of events that occurred on or after 15 November 2016. We note that in case of an event or a series of events that occur(s) before and after 15 November 2016, the WAMCA should in principle also apply (see, e.g. Central Netherlands district court, ECLI:NL:RBMNE:2025:10 and Amsterdam court of appeal, ECLI:NL:GHAMS:2024:2238),

The Representative Actions Directive (EU) 2020/1828 ("RAD") was implemented in the Netherlands by amending the WAMCA framework to meet the RAD's cross-border consumer claim requirements. These changes apply since 25 June 2023.

Second, under the Collective Settlement of Mass Damages Act ("WCAM") a Representative Organisation and a defendant who have reached a settlement can jointly request the Amsterdam court of appeal to declare the settlement binding on all affected parties. These parties may opt out within a period set by the court. The WCAM is codified in Articles 7:907–7:910 DCC and Articles 1013–1018 DCCP.

Third, claims can be bundled by other means, such as by (i) an assignment of claims to a claim vehicle (Article 3:94 DCC), (ii) the grant of a power of attorney (Article 3:60 DCC), or (iii) by providing a mandate (Article 7:414 DCC). The standard procedural rules apply to these group claims. Even after the introduction of the WAMCA regime, the group claim strategy remains a popular way to litigate group claims, in particular in cases where the number of injured parties is manageable and claim value per injured party is relatively high.

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

The collective action mechanism in the Netherlands was initially developed in Dutch case law, where courts granted standing to organizations acting in the collective interest. This laid the groundwork for the introduction of Article 3:305a DCC in 1994 (the Collective Actions Act, "CAA"). This Article, as noted, enables foundations and associations with legal capacity to bring representative actions. Under the CAA regime, however, damages (*schadevergoeding*) could not be directly claimed by Representative Organizations. Thus, collective actions before the introduction of the WAMCA regime tended to involve procedures in which a Representative Organization would claim a declaration of law that certain behavior was to be considered unlawful. Next, on the basis of such a declaration of law, the Representative Organization would negotiate a settlement on behalf of a group or litigate a (bundled) group claim on behalf of individuals harmed by the behavior within the scope of the declaration of law.

Next, in 2005 the WCAM was introduced, allowing parties to jointly request the Amsterdam court of appeal to declare a collective settlement binding. This legislation was received positively, and various settlements have

been approved including for example most recently the Fortis/Ageas WCAM settlement. However, a noted of the WCAM was deemed to be the scenario where the defendant is unwilling to negotiate. This would lead to action in Dutch parliament.

On 8 November 2011, the Dutch House of Representatives adopted the Dijksma motion, which called on the government to draft a roadmap to enable collective claims for damages. Recognizing the need for a stronger enforcement mechanism, the Dutch legislature would eventually go on to adopt the WAMCA, which entered into force on 1 January 2020 (see also: our answer to question 1). The WAMCA regime allows Representative Organizations to claim monetary compensation on behalf of a group, under an opt-out regime, and provides a comprehensive framework for collective litigation.

### 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?

At the time of writing (mid-April 2025), a total of 95 proceedings have been initiated under the WAMCA since 1 January 2020, averaging approximately 18 cases per year. In 33 of these cases, claims for damages were brought. The subject matter of the proceedings can be broadly categorized as follows: 19 actions concerning constitutional, environmental, animal, or human rights; 17 actions relating to privacy; 11 actions concerning intellectual property; 8 actions involving contract law; 7 cases related to employment law; 6 actions concerning Diesel emissions; 5 COVID-19-related claims; 4 tenancy law matters; 3 competition law actions; 2 product liability cases; and 13 cases can be classified as "miscellaneous."

Since the WCAM came into force in 2005, the Amsterdam court of appeal has approved and declared binding a total of nine collective settlement requests. Of these, seven involved securities, financial services, or shareholder claims, while the remaining two concerned product liability.

There is no reliable data on the amount of bundled group actions in the Netherlands.

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

### commercial litigation generally)?

For the types of claims that are most prevalent, please see our answer to question 3.

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

The WAMCA, WCAM and bundled claims are all forms of collective redress, meaning that redress is sought for a group or collective.

The WAMCA regime is referred to as a collective action regime in The Netherlands. Group members domiciled or residing in the Netherlands who fall within the scope of the certified collective action are automatically represented by the Representative Organisation appointed by the court as Exclusive Representative, unless they opt out during the court-ordered opt-out period. The court's decision is binding on all group members who do not opt out. For group member outside the Netherlands, the court may either (i) extend the opt-out regime to them, or (ii) include only those who opt in (Article 1018f(1), (3), and (5) DCCP). The option to apply the opt-out regime to non-Dutch domiciled group members does not apply to cases which fall under the scope of the RAD (article 1018f (6) DCCP). If a settlement is reached in a WAMCA case, group members are granted a second opportunity to opt out (Article 1018h(5) DCCP).

The WCAM is a collective settlement regime, as outlined in our answer to question 1.

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

Collective redress is often triggered by media attention, regulatory investigations, and/or whistleblower disclosures that reveal the systemic nature of the alleged misconduct.

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

Regulatory enforcement findings often serve as the genesis for private enforcement through collective redress proceedings. Thus, for instance, many of the ongoing major damages actions under the WAMCA

regime can be traced back to public enforcement. This is in part due to the fact that the decision by regulators can have binding effect in civil law collective redress proceedings (such as is the case with respect to competition authority decisions by the Commission), and in part because the regulators will often make public certain fact patterns that have remained hidden from the general public. With the enforcement findings being published, there is a factual basis on which the Representative Organizations can act to represent clearly identified groups.

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

Collective redress in the Netherlands such as the WAMCA can be brought in relation to a wide range of legal issues, provided the claims are sufficiently similar and lend themselves for collective resolution. The legal basis for these actions often lies in tort (unlawful act under Article 6:162 DCC), contract law, or specific statutory provisions, depending on the nature of the underlying conduct.

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

The WAMCA regime permits collective actions for all types of claims across all areas of law and sectors, including consumer protection, financial services, and competition law. Similarly, WCAM settlements may address a wide range of claims, as do group actions (i.e. bundled claims).

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

Under the WAMCA, a Representative Organisation that satisfies the standing requirements stipulated in Article 3:305a DCC may bring a collective action. This includes both established and ad hoc foundations or associations with full legal capacity, provided they meet the statutory criteria.

To fulfil the requirements, the Representative Organisation must pursue the objective of protecting the interests of the relevant group according to its articles of association, and must be able to demonstrate its ability to adequately safeguard those interests. The WAMCA contains specific governance requirements that must be adhered to and serve to ensure that the interests of group

members are sufficiently safeguarded. The Representative Organisation must have (i) a non-commercial purpose; (ii) suitable mechanisms in place to allow members of the affected group to be represented in the decision making process; (iii) sufficient financial resources to conduct the litigation; (iv) adequate experience and expertise to manage the claim; (v) a management board of at least three persons and a supervisory board of three persons; as well as (vi) an operational infrastructure, including a website detailing the claim and how individuals may join or support it.

Notable in this context is also the Claimcode 2019, a 'comply or explain' governance code for Representative Organizations that pursue collective actions. Although adherence to the Claimcode is not formally required, as the Claimcode is not formal legislation, the courts in practice tend to verify the manner in which the Representative Organization relates itself to the best practices in the Claimcode, with particular attention being paid to the best practice related to external funding and the best practice that both the management and supervisory board have at least one member with financial expertise, and one member with legal expertise relevant to the claim.

Public bodies may also bring collective actions where they are specifically mandated to protect the interests of the group in question (Article 3:305b DCC). Additionally, some regulators have sector-specific powers to initiate procedures akin to class actions under their own regulatory frameworks.

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

Claims by non-Dutch residents are permitted under both the WAMCA and WCAM regimes, subject to regular jurisdictional and admissibility conditions.

Under the WAMCA, a Dutch court will generally assume jurisdiction if the defendant is domiciled in the Netherlands. Additionally, the "scope rule" (Article 3:305a(3)(b) DCC) requires that the collective action is sufficiently connected to the Netherlands. This connection is considered sufficient if one of the following applies: (i) the majority of the persons whose interests are protected by the legal action resides in the Netherlands; (ii) the defendant is domiciled in the Netherlands, and there are additional circumstances that show a strong connection to Dutch jurisdiction; or (iii) the event that caused the damage occurred within the Netherlands.

The RAD, which has been implemented in the WAMCA, provides a legal framework for EU cross-border consumer collective actions based upon EU legislation listed in Annex I, such as the General Data Protection Regulation ("GDPR"). The RAD requires each EU Member State to list qualifying organisations domiciled in its jurisdiction as appointed organisations. These appointed organisations ("**Qualitative Entities**") are allowed to initiate collective actions in other EU Member States. The Dutch courts may not assess whether foreign Qualitative Entities meet the WAMCA requirements for organisations, but they may assess whether the further WAMCA standing requirements for the specifically filed collective action are met.

Non-Dutch claimants can be represented in a WAMCA action through either the opt-in mechanism or, if the court permits, under the opt-out system. This with the caveat that in case of a collective action which falls under the scope of the RAD, the court is not allowed to apply the opt-out system to non-Dutch residents (Article 1018f (6) DCCP).

Under the WCAM, settlements declared binding by the Amsterdam court of appeal may also cover parties domiciled outside the Netherlands. These parties are granted the same opt-out rights as Dutch-domiciled parties. This entails that the WCAM provides an opportunity for an Europe-wide settlement. Examples of such settlements are the Fortis/Ageas WCAM settlement (Amsterdam court of appeal, ECLI:NL:GHAMS:2018:2422), the Converium WCAM settlement (Amsterdam court of appeal, ECLI:NL:GHAMS:2010:BO3908) and the Shell WCAM settlement (Amsterdam court of appeal, ECLI:NL:GHAMS:2009:BI5744).

It is also possible for international claimants to assign a claim to claim vehicles in the context of a bundled claim (see e.g.: Amsterdam district court, ECLI:NL:RBAMS:2022:4466). However, we note that the claimant must in such a case carefully consider the legal structure of the assignment, given that in certain jurisdictions limitations are placed on the ability to assign certain claims.

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

For a claim to be possible under the WAMCA, the number of persons represented and the (individual or collective) financial interest must be sufficient to make the collective action more efficient and effective than individual proceedings (Article 1018c(5)(b) DCCP). Thus, there is no fixed, minimum threshold for a WAMCA.

Similarly, in a WCAM case, the group of beneficiaries must be large enough to justify declaring the settlement agreement binding (Article 7:907(3) DCC). As with WAMCA, there is no statutory minimum; the adequacy of the group size is assessed case by case.

Under both the WAMCA and the WCAM, there is no maximum size of the collective, to be represented group. In bundled cases there is also no formal limit on the amount of individual claims that can be bundled.

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

The WAMCA and WCAM regimes do not impose specific requirements concerning sourcing of the class. Public outreach, including advertising, is permitted.

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

All courts in the Netherlands deal with WAMCA proceedings; there is no designated specialist court. However, within the judiciary, expert groups share knowledge and best practices on WAMCA cases, and courts often assign judges with specific experience to consider filed collective actions. In practice, most WAMCA claims are filed with the District courts of Amsterdam and The Hague. Amsterdam is a common venue due to the concentration of corporate defendants, while The Hague often has jurisdiction in cases filed against the Dutch State (or administrative entities).

In contrast, WCAM settlements are handled exclusively by the Amsterdam court of appeal, which is the only court empowered to declare a settlement binding (Article 1013(3) DCCP).

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

Please see our answer to question 11.

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

Please see our answers to questions 1, 5 and 11.

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



## redress claim?

Before issuing a writ of summons, a Representative Organisation first has to try to settle the matter with the defendant. Sufficient for this is a maximum period of two weeks after the claim letter with the invitation for settlement discussions has been received by the defendant.

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

A Representative Organisation that initiates a collective action is required to register the claim in the online central register for collective actions ("**Register**") (Centraal register voor collectieve vorderingen | Rechtspraak). This registration must take place within two days after the writ of summons has been served on the defendant.

The purpose of this obligation is to enable other Representative Organisations to become aware of the claim, and potentially file a competing claim within the statutory waiting period prescribed by the WAMCA. This waiting period is three months, and may be extended by an additional three months (Article 1018d DCCP) upon request by a Representative Organization. The request for such an extension must be filed in the first month after registration of the initial claim, and the claimant requesting the extension must show that it will indeed file a competing claim.

After the waiting period, the preliminary stage of the WAMCA procedure commences. In this first stage of the proceeding, the court will deal with possible preliminary motions, such as a jurisdictional objection, and next assess whether the Representative Organization has standing to bring the claim. This involves a test of *inter alia* the governance of the organization, as well a test of whether the claim brought is well suited for a collective action proceeding. The defendant can also file a motion to dismiss at this stage, but for this to succeed, the defendant will have to show that the claim is *prima facie* unfounded (*summierlijk ondeugdelijk*). Once these matters are resolved, the court will determine what group is represented (or what public interest is represented in a general interest collective action), and appoint out of the Representative Organizations that have standing the most appropriate Representative Organisation to act as the exclusive representative of the class ("**Exclusive Representative**", Article 1018e DCCP). Individuals falling within the certified class have to be notified of this appointment, either by regular mail or through another method determined by the court. In practice, this may

include publication in newspapers and/or electronic notification, such as email (Article 1018f DCCP).

The fairly strict requirements that apply in the WAMCA regime do not apply in the context of bundled claims (Central Netherlands district court, ECLI:NL:RBMNE:2025:1837).

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

Please see question 20 below.

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

As noted in our answer to question 3, in total 95 WAMCA claims have been registered since the WAMCA entered into force on 1 January 2020. A WAMCA procedure typically unfolds in at least two distinct phases:

- The preliminary stage: here, the court deals with preliminary motions, determines whether the claims are sufficiently similar to be dealt with in a collective action, and assesses whether the Representative Organization meets the statutory admissibility requirements to bring the claim. At the end of this stage, the court must appoint the most suitable Representative Organisation as the Exclusive Representative (Article 1018e DCCP), and define which group will be represented in the collective action. Next, the court will in principle provide individuals that fall within the group an opportunity to opt-out of the claim.
- The merits stage: here, the merits of the claim are litigated. There is less experience within the WAMCA regime in this stage, but it is generally expected that in most cases the court will first consider whether the defendant is liable, before separately turning to the question of the possible quantum of damage to be awarded (or other means of redress).

Given the complexity of the average WAMCA proceedings, the cases tend to last longer than standard proceedings. In standard non-collective cases, a hearing on preliminary issues or the merits usually takes place within four to six months after the statement of defence, depending on court and party availability.

By contrast, WAMCA procedures involve a mandatory waiting period of three months after the summons is published in the Register, allowing other Representative Organisations to file competing claims. This period can

be extended once by another three months (Article 1018d DCCP). After this waiting period the defendant has to submit a statement of defence on admissibility and other preliminary issues, and only after the appointment of the Exclusive Representative and the opt-out period will the proceedings on the merits begin. Overall, given these additional steps and procedural safeguards for defendant and the group, a WAMCA proceeding will soon require three to four years of litigation before a final decision on the merits can be rendered.

We note that several (procedural) issues still needed to be clarified in the early case law after the WAMCA was introduced in 2020. As a result, the earlier WAMCA proceedings tended to last longer than will likely be required for new WAMCA proceedings moving forward.

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

In principle under the WAMCA regime all remedies that would be available in non-collective redress proceedings are available. Specifically, with the introduction of the WAMCA, the Dutch legislator opened the ability for Representative Organization to also claim damages (schadevergoeding). Similarly, in group actions in principle all remedies are available. In a WCAM settlement, the settling parties have considerable room to determine how to settle as well, but in practice these collective settlement tend to revolve around damages or similar types of monetary compensation, and not involve other remedies.

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

No, there are no punitive or exemplary damages available in the Netherlands.

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

In the Netherlands, collective actions under the WAMCA are typically handled by a panel of three judges. The panel of judges ensures that there is sufficient expertise and diversity in decision-making, particularly when dealing with complex matters. Group actions are generally also dealt with by a panel of three judges, given that these cases are also deemed to be of a more complex nature.

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

No. In the Netherlands all cases are decided by judges, there is no jury system.

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

Dutch courts quantify damages in the way most suitable to the nature of the harm suffered, with the goal of restoring the injured party to the position it would have been in had the wrongful act not occurred. In principle, in most cases, the court will attempt to determine the damage caused precisely based on concrete data. However, if this is not possible, the court is also allowed to estimate the damage suffered (Article 6:97 DCC).

Importantly, in collective actions under the WAMCA, courts are explicitly allowed to categorize damages across subgroups of claimants (Article 1018i DCCP). This enables a more abstract form of quantification, without assessing individual circumstances in detail, as would be required in a standard individual case.

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

The WAMCA allows the court to declare a settlement generally binding on a represented group (Article 1018h DCCP). Besides the WAMCA we have also explained the WCAM (see, for example, our answer to question 1): a procedural mechanism where the Amsterdam court of appeal can declare an out-of-court settlement generally binding on a defined group. In both the WAMCA and the WCAM proceedings, the court will provide individuals within the group with an opt-out opportunity. Persons that choose to opt-out, will not be bound by the settlement.

By contrast, court approval is not required for opt-in settlements which are not declared generally binding.

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

Please see our answer to question 26.

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

The key emerging business risks that are the focus of collective redress and class action litigation are: (i) ESG issues, including climate-related claims and human rights concerns; (ii) technology and data privacy issues, particularly in the context of the Digital Markets Act, GDPR compliance and data breaches; and finally (iii) intellectual property issues.

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

There are at least two noteworthy trends. First, it is noticeable that the courts have taken measures to speed up the WAMCA proceedings now that there is more clarity on certain new procedural requirements. Newly filed WAMCA cases appear to be catching up to cases filed shortly after introduction of the new regime.

Second, and building on our answer to question 28, there is a clear uptick in collective actions that involve ESG claims. Thus far, these have mostly been general interest claims, but increasingly these ESG claims are also actions directed against private companies in which damages are claimed on behalf of defined groups. We are aware of certain new ESG cases currently in development, which we expect to be filed in 2025.

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

Over the next 12 months, the most significant legal developments in collective redress and class actions are likely to focus on ESG-related claims, driven by continuing public scrutiny. We also expect that collective actions against misuse of artificial intelligence will develop over the next 12 months.

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

Yes. The ESG claims filed so far, vary from claims for declaratory judgments to claims for injunctions and damages (including a combination of those claims). We refer to our answers to questions 28 and 29.

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

The WAMCA regime is currently being evaluated, with a first report focusing on general interest collective actions being expected mid-2025, and a second report expected later during the year. We anticipate that certain procedural changes may be made, based on recommendations provided by the reports.

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