



ANDERSEN®

11  
23

## Litigation & Arbitration

Class Actions  
across various  
jurisdictions

# Andersen Global

Andersen Global® was established in 2013 as an association of legally separate, independent member firms, with a worldwide presence and comprised of professionals that share a common background and the same vision no matter the location where they are.

Our growth is a byproduct of the outstanding client service delivered by our people - the best professionals in the industry. Our objective isn't to be the biggest firm, it is to provide best-in-class client services in a seamless fashion across the globe.

Our professionals are selected based on quality, like-mindedness and commitment to client service. All of our Andersen Global professionals share our core values

Andersen Global was established to create an enduring place – ONE FIRM where clients across the globe are afforded the best, most comprehensive tax and legal services provided by skilled staff with the highest standards.

Outstanding client service has and will continue to be our top priority.

Discover all the member firms and collaborating firms of Andersen Global at:  
[global.Andersen.com](http://global.Andersen.com)

## Core Values

---



### Best-In-Class

We aim to be the benchmark for quality in our industry and the standard by which other firms are measured.



### Stewardship

We hire the best and the brightest and we invest in our people to ensure that legacy.



### Independence

Our platform allows us to objectively serve as our client's advocate; the only advice and solutions we offer are those that are in the best interest of our client.



### Seamless

Our firm is constructed as a global firm. We share an interest in providing the highest level of client services regardless of location.



### Transparency

We value open communication, information sharing and inclusive decision making.

# Introduction

The modern economy, based on an international network of producers and global sales of goods and services, increases the risk of harm to a large number of contractors, especially consumers. The COVID-19 pandemic has shown that administrative decisions can give rise to claims by a large number of businesses, such as gym operators. In many European countries, laws have come into force that allow class actions: on the one hand, we have a large number of plaintiffs, and on the other hand, the defendant, which can be another entrepreneur or a public authority. Below, I will describe the specific or general rules for class actions in various European jurisdictions.

Andersen Global has a presence in more than 400 locations worldwide. Find your litigation and arbitration local expert at [global.Andersen.com](https://global.Andersen.com)



*Tomasz Srokosz*  
*Litigation and Arbitration Coordinator*  
[tomasz.srokosz@pl.Andersen.com](mailto:tomasz.srokosz@pl.Andersen.com)



*Ana Pepeljugoska, Ph.D.*  
*Partner | Editor of the publication*  
[apepeljugoska@pepeljugoski.com.mk](mailto:apepeljugoska@pepeljugoski.com.mk)



You may also be interested in:

## **A guide to enforcing foreign court judgments across various jurisdictions - June 2023**

In this guide, lawyers from various European jurisdictions provide a practical overview of the requirements that must be satisfied and of the steps that need to be undertaken to seek the recognition and enforcement of foreign judgments.

→ [See more](#)

# Malta

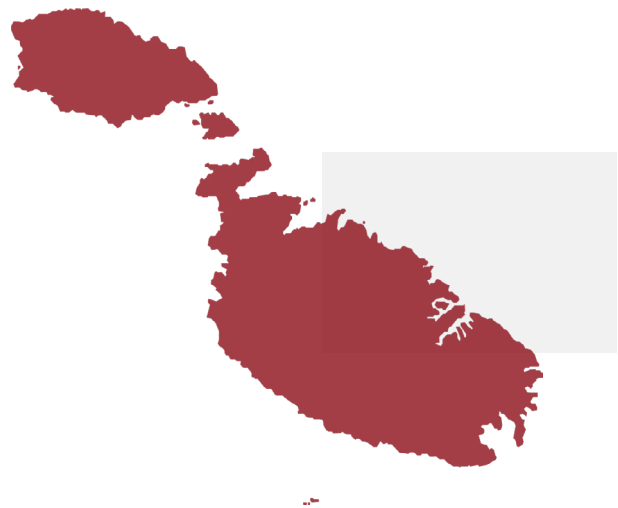
## Definition and in which areas it is possible

Maltese law defines a "class" as a group of individuals who are or have been injured and whose claims arise out of common issues. Maltese law draws a distinction between group actions and representative actions. In a group action, the representative claimant must have a personal claim that falls within the class of claims in the proposed collective action. In a representative action, on the other hand, the claimant is a representative entity that does not necessarily have a personal legal interest in the case.

Such actions may be brought in certain areas, in particular consumer law. Thus, a class action is possible where the claimants bring an action against the defendant for allegedly infringing the Consumer Affairs Act, the Product Safety Act and/or the Competition Act, as well as other EU directives and regulations in this field. However, cumulative actions, not necessarily related to consumer law, are also available to claimants in Malta under the Code of Organization and Civil Procedure (Chapter 12 of the Laws of Malta).

## Legal regulation, competent forums and approximate duration of the procedure

Before June 2023, class actions in Malta were exclusively regulated by the Collective Proceedings Act (apart from cumulative actions regulated by Chapter 12 of the Laws of Malta, as mentioned above). In June 2023, Malta implemented the EU Directive on representative actions for the protection



of the collective interests of consumers (the "Representative Actions Directive") by passing the Representative Actions Act. This Act broadens the scope of class actions and creates a more orderly procedural regime for such actions in Malta.

The Representative Actions Act applies to representative actions and therefore to actions filed by qualified entities. To be eligible to bring such an action, an entity must be an organization or public body representing the interests of consumers that has been designated by the Consumer Affairs Council of Malta.

To commence a representative action in Malta, a sworn application must be lodged with the Civil Court (Commercial Section) of Malta. In such a case, the action is filed by the qualified entity on behalf of consumers. Upon filing the application, the court will hold a pre-trial hearing, at which the court will rule whether the action:

- falls under a representative action, and therefore orders the continuation of the proceedings;
- OR
- The action does not fall under the category of a representative action, thereby ordering the dismissal of the proceedings.

If the court decides to proceed with the case, the proceedings will be conducted in the same manner as other ordinary proceedings. Therefore, the expected timeframe will be the same as in other cases. It is important to note, however, that because there are many people involved in the case, the amount of evidence to be presented may be substantial, which could result in certain delays.

## Litigation Funding

---

The Representative Actions Act allows for third party funding of litigation, provided that:

- conflicts of interest are prevented; and
- funding by third parties that have an economic interest in bringing or in the outcome of the representative actions, do not divert the representative action away from the protection of the collective interests of the consumers.

The law puts safeguards in place to ensure that, in the case of third-party funding, the common interest of the class is safeguarded. Amongst other measures, Maltese law establishes that in case of third-party funding:

- an action cannot be brought against a defendant who is a competitor of the third party who is funding the representative action;
- the qualified entity is to submit to the court a financial overview that lists sources of funds used to support the representative action.

If the court considers that these safeguards have been disregarded, it has the power to order the qualified entity to refuse or vary the funding. The court may also decide that the qualified entity does not have legal standing, which does not affect the rights of the consumers involved in the representative action.

## Case law

---

At the time of writing, class actions are not widely used in Malta. This may be due to the lack of a proper legal framework providing a structured procedure for such actions. Since the Representative Actions Act has only recently come into force in Malta, it remains to be seen whether Malta will see an increase in such actions as a result of the introduction of such legislation.



**Dr. Charlene Mifsud**  
**Partner**

Chetcuti Cauchi Advocates  
Collaborating Firm of Andersen Global  
[ccmifsud@ccmalta.com](mailto:ccmifsud@ccmalta.com)



**Dr. Luana Cuschieri**  
**Senior Associate**

Chetcuti Cauchi Advocates  
Collaborating Firm of Andersen Global  
[luana.cuschieri@ccmalta.com](mailto:luana.cuschieri@ccmalta.com)



Andersen Global is a Swiss verein comprised of legally separate, independent member firms located throughout the world providing services under their own names. Andersen Global does not provide any services and has no responsibility for any actions of the Member Firms or collaborating firms. No warranty or representation, express or implied, is made by Andersen Global, its Member Firms or collaborating firms, nor do they accept any liability with respect to the information set forth herein. Distribution hereof does not constitute legal, tax, accounting, investment or other professional advice.