

Country Report: Italy¹

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1. Introduction and general overview

Italy represents an interesting case study for collective private enforcement of data protection law, as it features a significant misalignment between the law in the books and the law in action.

Indeed, since 2009, Italy has had two sectorial instruments of collective redress, regulated within the consumer code ([Codice del Consumo](#), “c. cons.”): the ‘old’ action for injunction (*azione inibitoria*, Artt. 139 – 140 c. cons.) and the ‘old’ class action (*azione di classe*, Art. 140-*bis* c. cons.), which was solely applicable for violation of consumers’ homogeneous rights through breach of contract, unfair or anticompetitive practice, product/service liability. This action had limited efficacy, mostly due to its restricted scope of application, strict standing and mandate requirements, and limited participation regime (requirement of ‘identical rights’, substituted by a still not-so-easy-to-prove requirement of ‘homogeneity’, opt-in mechanism, short adhesion timeframe, costs, limited material scope). In the absence of official statistics and a proper register collecting the claims filed, circa 70 cases seem to have been filed, most of which after the *Dieselgate* scandals. Many cases were considered inadmissible or not decided on merits. [L. 31/2019](#) abrogated both instruments and introduced a general system of collective redress in the Civil Procedure Code ([Codice di Procedura civile](#), “c.p.c.”), consisting of the *azione di classe* (Art. 840-*bis* ff., c.p.c.), and the *azione inibitoria collettiva* (Art. 840-*sexiesdecies* c.p.c.).

To implement the EU [Representative Actions Directive](#) (“RAD”), [D.lgs. 28/2023](#) re-introduced a consumer-specific regime, where qualified entities can bring, either nationally or across borders, claims for both injunctions (*azione inibitoria*, Art. Art. 140-*septies* c. cons.) and reparation (*azione rappresentativa*, Art. 140-*ter*, c. cons.) for the protection of consumers’ interests harmed by private companies’ violation of the provision listed in Annex II-*septies*, implementing Annex I RAD.

Despite the positive innovations, the two new regimes (general and consumer-law-specific) are still criticized for their limited *locus standi* and the choice of an opt-in system. Also critical is the lack of a proper role for professional litigation financing, connected to the general length and high costs of the Italian judicial system, as well as the uncertainties affecting several parts of the proceedings, whose concrete application remains uncharted territory. Furthermore, calculating damages, especially for non-material harm, remains a complicated and unresolved issue.

Both systems had a slow start: according to the data available in the [Official Register](#), circa 40 actions have been filed since 2021, of which circa 1/4 are ‘consumer-law’ claims, with very few cases connected to the violation of data protection law.

In addition to those ‘proper’ forms of collective redress, other procedural mechanisms have the effect of adding a ‘collective’ dimension to judicial protection. Most importantly, individuals can assign individual claims under Art. 1260 Civil Code ([Codice Civile](#), “c.c.”) to law firms or professional claim purchasers, who litigate them under their name. Despite the lack of statistical

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data, this form of litigation seems to have gained some traction over the years, particularly for antitrust damages, and it might expand to data protection issues in the future.

Section of this report 2 describes the legal framework regulating collective litigation and data protection law, focusing, in particular, on the (i) locus standi, (ii) opt-in regime, (iii) interaction with public enforcement (iv) funding.

Section 4 identifies the main collective actors working in the field of data protection in Italy, either specifically, or as an element of general consumer protection.

Section 5 gives a comprehensive overview of the collective private parties' litigation in the field.

2. Legal Framework

a. National implementation of Art. 80 GDPR

In Italy, the normative framework in the field of data protection law is particularly complex and fragmented.

Italy has not directly implemented the [General Data Protection Regulation](#) (“GDPR”), but adopted a Legislative Decree ([101/2018](#)) to amend the pre-existing Privacy Code ([Codice della Privacy](#)) as well as other relevant provisions, including Art. 10 Legislative Decree 150/2011, which set specific procedural rules governing the proposition of actions under Art. 78 and 79 GDPR, and in general actions related to the application of data protection law, including compensatory claims.

With the new framing, data protection disputes before civil judges are regulated – unless otherwise specified – by the (more flexible) procedure established for labour law claims and can be filed in the forum of either the data controller’s or the data subject’s residence or headquarters.

Most importantly, the “interested party can give a mandate to a third sector body subject to the provisions of Legislative Decree 3 July 2017, n. 117, who is active in the sector of protection of the rights and freedoms of interested parties with regard to the protection of personal data, to carry out the action on his behalf, without prejudice to the provisions on legal aid provided for by the civil procedure code.” Hence, only specific ‘idealistic’ entities can represent individuals – also in compensation claims – provided that a specific mandate has been granted.

Lastly, the procedure allows a certain level of coordination between private and public enforcement: when not a party to the case, the Data Protection Authority can present observations on ongoing disputes, and judges are required to inform the Authority of pending disputes, providing relevant documents to facilitate meaningful contributions, ensuring that the Authority’s expertise enhances the quality of adjudication.

However, those provisions were originally set out for individual disputes, and doubts remain about their application in collective cases. In particular, doubts arise concerning the limitation to ‘third sectors’ bodies, which was originally also provided as a requirement to be listed as an entity legitimized to bring the general *azione di classe* (840-bis c.p.c.) by the Ministerial Decree specifying the conditions for *locus standi* for said proceedings but has later been deemed unconstitutional (see Section 3). Likewise, problems may arise as regards the duty to notify the proposition of a claim to the *Garante della Privacy*, as well as its right to participate in judicial proceedings, which are not recalled in the provisions on collective actions.

b. National framework on collective redress

The Italian legal system regulating collective actions consists of four instruments in the field of consumer law (two abrogated, but applicable in a transitional regime, and two newly introduced, as implementation to the RAD), and two instruments of general application.

Old consumer law-regime

- ***Azione inibitoria collettiva* ex Art. 139-140 Consumer Code (abrogated, still applicable for wrongs occurred by 19 May 2021)**

The ‘old’ *azione inibitoria* allowed certified consumer associations to bring an action for an injunction against conducts interfering with the general interest of consumers. It also allowed them to seek orders for the adoption of adequate measures to remedy or eliminate the harmful consequences of such violations.

- ***Azione di classe* ex Art. 140-bis ff. Consumer Code (abrogated, still applicable for wrongs occurred by 19 May 2021)**

The ‘old’ *azione di classe* allowed each member of a class of harmed consumers, or an association specifically mandated with the power to bring the claim, to bring a proceeding for damages and restitution against a private corporation, when the latter had violated their homogeneous rights through breach of contract, unfair or anticompetitive practice, product/service liability. Opt-in was allowed only within the strict timeframe set by the judge after the admissibility order, which the plaintiff had then to advertise in national newspapers.

New regimes

While the new general and consumer-specific regimes have different material and personal scopes of application, several procedural elements are regulated similarly, or directly through incorporation by reference to what is established for the general class actions. For this reason, the following section will give brief descriptions of the characterizing or peculiar features of each type of action, and then describe in one setting the common elements.

General

- ***Azione di classe* 840-bis c.p.c.**

Each class member or a non-profit organization or association registered in a special national registry, whose statutory objectives include the protection of homogenous individual rights, can claim compensation and refund against private companies or public bodies for the harms caused in carrying out their respective activities.

The *azione di classe* can be used to seek liability determination, damages, and restitution, governed by general civil code rules (Art. 840 *bis*, c.p.c., 840-*sexies*, 840-*octies* (5), c.p.c.).

Other subjects can opt in at several moments of the proceedings.

- ***Azione inibitoria collettiva* 840-*sexiesdecies* c.p.c.**

Pursuant to Art. 840-*sexiesdecies* c.p.c., anyone with an interest in stopping harmful acts affecting multiple individuals or entities can seek an injunction to cease or prevent such actions. Non-profit organizations or associations focused on protecting the affected interests can also bring the action

pursuant to the requirement in article 840-*bis*. This action can be taken against companies or entities managing public services or utilities for actions conducted during their activities.

The *azione inibitoria collettiva* enables stopping or preventing harmful conduct affecting many individuals (art. 840 *sexiesdecies*, c.p.c.). Moreover, the court may, upon request of a party or the public prosecutor, impose fines for non-compliance under Art. 614-*bis* c.p.c. (even beyond its usual limits), order the infringer to eliminate or reduce the effects of the violations, and order public dissemination of decisions.

For the general *azione di classe* and the *azione inibitoria collettiva*, the c.p.c. does not regulate cross-border cases, which follow ordinary rules of private international law.

Consumer specific regime

- ***Azione rappresentativa 140-ter c.p.c. ff implementing the RAD***

Under the new provisions in the consumer code, qualified entities can bring, nationally or across borders, an *azione inibitoria* regulated by Art. 140-*septies* and following cod. cons., to claim injunction or reparation for the protection of consumers' interests harmed by private companies. Said action may be brought only after fifteen days have elapsed from the date on which the qualified entity has requested, by registered letter with acknowledgement of receipt or by certified electronic mail or other qualified certified electronic delivery service, the cessation of the harmful behavior affecting the interests of consumers and users (140-*octies* cod. Cons.).

Likewise, the same entities can bring an *azione rappresentativa* regulated by Art. 140-*ter* ff. cod. cons., against violations committed by professionals, harming, or potentially harming, 'collective consumer interests'.

Cross-border actions may be filed (a) before an Italian court, by qualified entities listed in the Commission's official registry (art. 140-*quater* c. cons.) (b) before a foreign court by entities listed in a specialized section of Art. 137 c. cons. (140-*quinquies* c. cons.).

To be listed, associations must meet specific criteria: legal establishment, a focus on consumer protection in the subjects listed by Annex II-*septies*, non-profit status, no insolvency, independence from external influences, conflict of interest safeguards, and transparency about their activities and funding. Independent national public bodies can also be authorized. The Minister of Enterprises and Made in Italy is entrusted to detail how this section is publicized and the procedures for registration and verification of requirements and to communicate the list to the Commission (Art. 140-*sexies* c. cons.).

The regulations for the specialized section established by Article 140-*quinquies* are outlined in the ministerial decree [d.m. 26/2023](#). This decree also defines procedures for registration requests, verification, cancellations, and communication regarding authorization for national representative actions. Access to Art. 137 c. cons. special section, is straightforward for nationally qualified entities. On the contrary, foreign associations may face practical challenges.

The *azione rappresentativa* can be activated solely for a violation concerning the provisions listed in [Annex II-septies](#) c. cons., transposing Annex I RAD (which includes violations related to product liability, unfair contractual terms and practices, air carrier liability for passengers and baggage, consumer protection on product pricing, e-commerce, data protection). However, the transposition of the Annex I RAD into Italian law has not been flawless. For instance, it mistakenly refers to violations of [D.lgs. 101/2018](#) (which adapts the Italian Privacy Code to GDPR) rather than the entire GDPR itself, as done by Annex I RAD.

Common (or similar) elements

All collective actions are regulated as civil procedures. Competence is given to the specialized business section (*sezione specializzata in materia di impresa*) of the territorially competent tribunal, and must be filed before the court where the respondent's headquarters are located (Art. 840-ter (1) and Art. 840-sexiesdecies (3) c.p.c, as well as 140-septies c. cons.). If the respondent has no legal headquarters in Italy but operates there, jurisdiction is determined by [Regulation 1215/2012](#), and Italian jurisdiction applies if the offence took place in Italy.

In both redress actions class members may opt-in within the court-established timeframe (between 60 and 150 days), following (i) the publication of the admissibility ruling, or (ii) the decision on merit. Publication of the actions filed is made on the [Official Register](#), and claimants further advertise the actions brought to encourage opt-in

In both redress measures, the court may suspend the judgment when there is an ongoing investigation before an independent authority or a proceeding before the administrative judge regarding the relevant facts for the decision. However, this does not affect the specific rules in [D.lgs. 3/2017](#) for compensating violation of EU antitrust law, where a final decision by national competition authorities or appeal courts in the EU serves as evidence against the violator, and the investigation suspends the limitation period.

Courts hold significant discretion in gathering evidence and can determine the defendant's liability using statistical data and rebuttable presumptions. At the claimant's request, the court can mandate the defendant to present evidence supporting the claim. The court must specify which evidence or categories of evidence need to be disclosed. If the evidence involves confidential information or documents, the court can implement measures to protect this confidentiality. Non-compliance with the court's disclosure order can result in a fine ranging from €10,000 to €100,000 (840 *quinquies* (4) c.p.c, 840 *sexiesdecies* (5) c.p.c, 140-*octies* (3) c. cons., 140-*novies* (2) c. cons.).

The Italian system of collective redress has only limited provisions for funding.

In the general *azione di classe*, adherents contribute a court-determined amount to cover litigation expenses, although the management of these contributions remains uncertain. The judge may order the defendant to pay a fee to the common representative of the adherents, as a percentage of the total amount owned to all adherents, varying based on the number of class members (from 9% to 1-500 members to 0.5% for over 1,000,000 members), modulable up to 50% (Art. 840-*novies* c.p.c.)

Furthermore, the claim is inadmissible when the claimant has a conflict of interest with respect to the respondent (Art. 840 *ter* (4), c.p.c.)

Similarly, for the *azione rappresentativa*, consumer and user associations are prohibited from engaging in the commercial promotion or advertising activities related to goods or services produced by third parties, and from having any connections of interest with production or distribution enterprises (Art. 137(3) c. cons). Additionally, claims are deemed inadmissible if there is a conflict of interest, especially if the entity financing the action is a competitor of, or dependent on, the defendant (Art.140-*septies* c. cons). The court must raise this issue *ex officio* and provide the plaintiff entity with a deadline to reject or modify the financing.

The market for third-party funding of class action is underdeveloped, also due to the legal uncertainties connected with these contracts (in principles allowed, but mostly unregulated, and conditioned by prohibitions such as those on contingency fees), as well as other elements of the Italian legal system (e.g. length of proceedings, absence of a principle of *stare decisis*), which make it difficult to predict the costs and outcome of proceedings.

For these reasons, significant doubts arise concerning the financial sustainability of collective actions, and the role that third-party litigation funding may play in it.

3. Main Actors

In Italy, collective data protection litigation is not fully developed. However, due to the overlap between data protection and consumer law, consumer associations potentially are potential actors in this type of litigation.

Article 137 of the Consumer Code (“**c. cons.**”) lists all consumer and user associations recognized by the Ministry and registered with the National Council of Consumers and Users (“**CNCU**”). Currently, 20 associations are [recognized](#).

One of the most active associations (*Altroconsumo*) has made significant use of the collective redress tools and filed several class actions, including the only collective claim in the field of data protection law (see Section 4 below). Importantly, this association is also a member of BEUC (*the European Consumer Organization*), *Consumers International*, and *Euroconsumers*.

None of the consumer associations specialize in data protection and privacy issues. Furthermore, there are no local data protection associations in Italy. However, international organizations like NOYB are active in the country and frequently file complaints before the *Garante della Privacy* (the Italian Data Protection Authority).

As per the subjects legitimized to bring a collective action under Art. 840-bis, the [list](#) currently does not include any organization active in the field of data protection law.

In some areas, particularly antitrust law and increasingly in consumer law, litigation is also pursued by specialized legal firms (such as *Delex* and *Libraclaims*) or legal platforms (such as *Prontodanno.it*). These entities focus on claim assignment, claim purchasing, and the related litigation of individual or aggregated claims.

Litigation financing is not developed in Italy, and there is only one local firm known to specialize as a Litigation Finance Fund (Because).

Public enforcement is carried out by a national DPA, the *Autorità Garante della Privacy*, which is commonly perceived as being quite active, with a generally good response rate to the recourse filed before it.

4. Legal Proceedings

The objective of this last section is to provide an overview of pending and adjudicated data protection CPE proceedings as per 31 August 2024.

<i>Altroconsumo v Facebook</i>	
Date of Initiation of the Claim	2018
Summary	Coordinated action brought by <i>Altroconsumo</i> and other consumer associations in Belgium, Portugal and Spain, under the auspices of <i>Euroconsumers</i> , in the aftermath of the Cambridge Analytica Scandal, contesting the violation of Art. 20, 21 and 22 c. cons (unfair commercial practice related to lack of information on the use of data)

Claimant	Altroconsumo
Defendant	Facebook
Type of Action	140-bis c. cons.
Remedies Sought	An award of 285 euro for each user, to be multiplied for the number of years where the latter had been registered at the Facebook, for the material and immaterial damage connected to the unauthorized use of personal information and sensitive data for commercial purposes
Status/Outcome	Settled. In May 2021, the consumer associations and Facebook announced a three-year collaboration starting May 28, 2021, to improve digital life and consumer value. As part of this agreement, the class action lawsuit by <i>Altroconsumo</i> (as well as those from other associations) against Facebook were resolved without any admission of wrongdoing, moving towards a cooperative relationship.