

# Legal 500

## Country Comparative Guides 2026

**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(s) and outline the principal sources of law and regulation and its overarching impact on the conduct of class actions in your jurisdiction.

Brazil has well-established mechanisms for the protection of collective rights.

Brazilian collective redress is designed to guarantee broad access to justice by providing a jurisdictional procedure aimed at resolving disputes of a collective nature.

Collective claims in Brazil protect three categories of rights: diffuse rights, collective rights (*stricto sensu*), and homogeneous individual rights. These categories are defined under Article 81 of Law No. 8,078/1990 (the Consumer Protection Code) and may be summarized as follows:

- Diffuse Rights: trans-individual rights of an indivisible nature, held by an indeterminate class of persons linked by a common factual circumstance;
- Collective Rights (*stricto sensu*): trans-individual rights of an indivisible nature, held by a determined or determinable group, category or class of persons connected to each other or to the opposing party by a common underlying legal relationship; and
- Homogeneous Individual Rights: divisible rights arising from a common origin, held by a determined or determinable group, category or class of persons.

It is common for a single collective action to simultaneously encompass several categories of rights, particularly in large-scale disputes of significant magnitude.

The Brazilian collective redress system differs materially from both the North American class action model and European associative action mechanisms.

The Brazilian collective redress model is characterized by broad and comprehensive compensatory relief, allowing the cumulative assertion of claims for obligations to act,

obligations to refrain from acting, and claims for the delivery of specific or generic assets, among other forms of relief.

The applicable legislation forms what is known as the collective redress microsystem.

The principal collective types of claims and their governing statutes are as follows:

1. Popular action – Law No. 4,717/1965;
2. Public civil action – Law No. 7,347/1985;
3. Collective writ of mandamus – Article 5(LXX) of the Federal Constitution and Article 21 of Law No. 12,016/2009; and
4. Collective labor disputes – Article 616(2) of Decree-Law No. 5,452/1943 (the Consolidation of Labor Laws).

In addition to the foregoing specific statutes, the collective redress microsystem is also informed by legislation such as the Consumer Protection Code (Law No. 8,078/1990), the Statute of the Child and Adolescent (Law No. 8,069/1990), and the Statute of the Elderly (Law No. 10,741/2003).

Collective redress extends even into criminal law, as evidenced by the availability of collective habeas corpus petitions. The leading case before the Federal Supreme Court was Habeas Corpus 143,641, and this remedy was subsequently codified by Law No. 14,836/2024.

The general rules governing collective redress are set forth in the Consumer Protection Code and the Public Civil Action Law. The Code of Civil Procedure (Law No. 13,105/2015) applies on a supplementary and subsidiary basis.

Collective actions may be preceded by a public civil inquiry, initiated by the Public Prosecutor's Office.

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

The origins of collective redress in Brazil can be traced to the Popular Action, introduced by Law No. 4,717/1965, which conferred upon citizens standing to challenge in court acts detrimental to public patrimony and other

collective interests.

The principal statute enacted to protect collective rights in the broad sense was the Public Civil Action Law (Law No. 7,347/1985), which significantly advanced the protection of trans-individual interests in areas such as the environment, consumer affairs, administrative probity, culture, and public patrimony.

The 1985 Act was the catalyst for the expansion of collective protection. The use of public civil actions increased exponentially following the promulgation of the Federal Constitution of the Federative Republic of Brazil in 1988, which broadened the catalogue of citizens' rights and strengthened the institutions empowered to bring collective actions – notably the Public Prosecutor's Office.

This was followed by the Consumer Protection Code (Law No. 8,078/1990), which consolidated the system by providing detailed rules governing diffuse rights, collective rights *stricto sensu*, and homogeneous individual rights.

These remain the primary statutes governing the instruments of collective protection, although various ancillary provisions are also applicable.

More recently, the structural injunction – a mechanism originating in the United States of America – has been adopted in Brazil as a means of enhancing collective redress. This instrument has been widely employed by the courts as a tool for achieving comprehensive and effective judicial relief, even in the absence of specific legislation in Brazil on the subject. A structural order seeks to implement systemic institutional reform within an organization in order to give effect to legal rights, public policies, or the resolution of complex disputes.

### **3. What is the frequency of class actions brought in your jurisdiction (divided by type of claim, as applicable), in terms of number of cases over the years and/or comparison to other types of litigation?**

The most recent report published by the National Council of Justice (CNJ), updated to April 2026, reveals that in 2026 alone, 13,629,702 new cases were filed before the Brazilian judiciary across all areas of law (civil, labor, electoral, criminal, military, and others).

With respect to collective rights protection, the CNJ established the CACOL Panel (National Registry of Collective Actions) to monitor collective actions. This

compilation reveals that, as of the April 2026 reference date, a total of 36,606 collective actions in the broad sense had been filed in Brazilian courts, broken down as follows: 18,731 public civil actions; 11,446 enforcement proceedings (a species of collective judgment execution); 3,372 collective civil actions; 1,106 popular actions; 863 collective writs of mandamus; and 1,088 cases in miscellaneous categories related to collective law.

In 2025, 108,247 new collective actions were filed (an average of 424 per business day), and 123,290 collective actions were resolved/finished (487 per business day).

Compared to 2024 (103,194 new cases filed and 113,743 adjudicated), 2025 saw an increase in both new filings and cases resolved.

Nonetheless, a total of 217,654 collective actions remain pending in 2026.

The total number of pending cases before the Brazilian judiciary stood at 76,004,663 as of 30 April 2026, meaning that collective actions represent approximately 0.286% of all pending cases. This figure alone does not reflect the true effectiveness of collective protection, given that collective actions are designed to have broad systemic impact, potentially addressing harm suffered by thousands of individuals.

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

Among the five branches of the Brazilian judiciary, collective actions are predominantly heard by the State Courts (highest absolute volume) and Labor Courts, respectively. National Council of Justice (CNJ) statistical data records no collective actions filed before the Electoral Courts or Military Courts.

According to CNJ data, the most common form of collective claim is the public civil action. The subject matters most frequently litigated in collective proceedings include labor matters and environmental issues.

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

A proceeding is deemed collective when its subject matter involves a disputed legal relationship of a collective nature – whether on the claimant or defendant side, involving rights or obligations – held by a group of

persons. A collective action is the claim that gives rise to collective redress.

Some scholars take the view that the concept of collective redress additionally requires: (i) an autonomous representative party with standing; and (ii) a judgment with erga omnes or ultra partes effect upon a community or collectivity.

There is also doctrinal support for the proposition that collective proceedings encompass repetitive case judgment mechanisms.

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

Almost any violation of collective rights may give rise to a collective redress in Brazil.

Most collective actions in Brazil have been brought by the Public Prosecutor's Office; however, other entities with standing include the Public Defender's Office, public bodies, and non-profit organizations.

The principal causes of collective actions relate to the protection of consumer rights, environmental matters, public health, administrative acts, and labor rights. More specifically, triggering events include major environmental disasters (like dam collapses or oil spills), systemic failures in the provision of public services, the incorporation of abusive clauses in consumer contracts, and employer violations of labor legislation.

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

Public administration in Brazil issues a wide range of administrative acts, regulating various economic activities and granting licenses and authorizations for private sector operations.

Within the Brazilian public administration, regulatory agencies exist for the regulation of telecommunications, electricity, land transportation, water transportation, and financial institutions, among others. These agencies are autarchies operating under a special regime; however, regulatory power is not exclusive to the agencies and may be exercised by other administrative bodies.

In collective redress, the administrative acts themselves may be challenged, or the conduct (whether acts or omissions) of private entities whose activities are regulated, authorized, or licensed by the public administration may be questioned.

Accordingly, an action may be brought against a public body seeking the correction or annulment of an administrative act or challenging an administrative omission. Alternatively, an action may be brought against a private party whose activities fall within the regulatory remit of a public body.

A public body may participate in proceedings relating to its activities, either as a party on the claimant or defendant side, or merely as an intervening party providing clarification.

A court is not bound by the opinion or acts of a regulatory agency, as Brazilian procedural law enshrines the principle of free reasoned judicial conviction. Although administrative acts enjoy a presumption of legality, they are subject to judicial review. The doctrine of administrative deference (the Chevron doctrine, originating in the United States of America) has been applied in various Brazilian cases, although that doctrine was overturned by the US Supreme Court in 2024 (*Loper Bright Enterprises v Raimondo*).

Judicial decisions in collective redress may influence administrative activity, particularly where the dispute raises novel issues that are as yet unregulated, inadequately regulated, or governed by outdated rules.

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

The scope of collective claims under Brazilian law is extremely broad.

Collective actions in Brazil may be founded upon any unlawful act or omission that violates diffuse rights, collective rights *stricto sensu*, or homogeneous individual rights.

The protected rights, set forth primarily in Article 1 of the Public Civil Action Law (Law No. 7,347/1985), include, *inter alia*: environmental damage, consumer protection violations, misleading advertising, competition law infringements, violations of public health and safety, discrimination, and harm to collective cultural, historical, artistic, urban, or other legally protected collective interests.

Article 1(IV) of Law No. 7,347/1985 is notably broad in providing that “any other diffuse or collective interest” may justify the filing of a public civil action.

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

There are few limitations on the filing of collective redress in Brazil. In essence, Article 1, sole paragraph, of Law No. 7,347/1985 expressly prohibits the use of public civil actions to pursue claims relating to taxes, social security contributions, the Severance Indemnity Fund, or other funds of an institutional nature whose beneficiaries may be individually determined.

In addition, collective redress may not be used to challenge the constitutionality of legislation in the abstract, as the Brazilian constitutional legal system does not contemplate public civil actions as an instrument of abstract constitutional review. Nevertheless, constitutionality may be raised incidentally, within the cause of action, in the course of a collective claim.

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

Standing to bring a collective redress proceeding depends on the type of claim.

In the context of public civil actions, Brazilian law does not permit individual citizens to initiate proceedings. Standing is restricted and defined by statute, comprising: the Public Prosecutor's Office (which brings the vast majority of actions); the Public Defender's Office; the Federal Government, States, Municipalities, and the Federal District; autarchies, public enterprises, foundations; and non-profit organizations (provided they have been established for at least one year and include in their institutional objects the protection of the right in issue).

A citizen can bring a Popular Action (Law No. 4,717/1965) to protect public patrimony, administrative probity, the environment, and historical and cultural heritage.

A collective writ of mandamus may be filed by: a political party with representation in the National Congress; or a trade union, class body, or non-profit organization lawfully established and in operation for at least one year, acting in defense of the interests of its members or associates.

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

As regards claimants, naturally, public bodies are created in accordance with Brazilian law. In the case of non-profit organization, the requirements for establishment and operation under Brazilian law must be met. Specifically, in a popular action, it can only be filed by Brazilian citizens exercising their political rights.

As regards beneficiaries (the collectivity that suffered the harm), there is no legal restriction based on nationality. Any individual affected within the territorial scope of the judicial decision may benefit from the relief awarded.

By way of illustration, a public civil action resulting in an improvement to the public healthcare system will benefit foreign nationals (whether or not domiciled in the national territory) making use of that public service.

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

There are no size limitations applicable to collective redress in Brazil. The number of persons affected does not determine the type of action, and there is no minimum or maximum number of beneficiaries required to file collective redress proceedings. The validity and lawfulness of a collective action are determined not by the size of the group but by the trans-individual nature of the right being asserted and the social interest involved.

Nevertheless, the composition of the affected group does affect certain procedural rules, particularly those governing *res judicata* in public civil actions.

Under Article 103 of the Consumer Protection Code, judgments shall have *res judicata* effect as follows:

- i. Erga omnes effect, except where the claim is dismissed for insufficiency of evidence (in which case any entity with standing may bring a new action on the same basis with new evidence), in cases involving diffuse rights (indeterminate class of beneficiaries);
- ii. Ultra partes effect, but limited to the group, category or class concerned, save for dismissal for insufficiency of evidence (as above), in cases involving collective rights *stricto sensu* (determined or determinable class of beneficiaries); and
- iii. Erga omnes effect, solely where the claim is upheld, so as to benefit all victims and their successors, in cases

involving homogeneous individual rights (determined or determinable class of beneficiaries).

Furthermore, the court may adopt case management measures during the individual enforcement phase of a collective redress, including limiting the number of enforcement applicants (individual beneficiaries) in any single execution proceeding arising from a collective judgment.

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

Given that the Brazilian collective protection microsystem operates across a broad spectrum of rights and is based on collective standing (rather than the joinder of multiple individual claimants), there are no specific prohibitions governing the composition of the class who will benefit from the collective judgement. The beneficiary class will be defined based on the violation of the substantive right under dispute.

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

Jurisdiction over collective redress in Brazil is determined by a sequential analysis. The first step is the identification of the relevant branch of judiciary, based on the subject matter specialty and the nature of the legal entity involved. Territorial jurisdiction is then assessed, followed by subject-matter jurisdiction as between the various courts.

The organization of the Brazilian judiciary follows the guidelines set forth in the Federal Constitution, which allocates jurisdiction by subject matter specialism (labor, electoral and military) or by reference to the Federal Government's interests and those of its autarchies and foundations (Federal Justice), with residual jurisdiction vesting in the State Courts. This framework is set out in Articles 106 to 126 of the Federal Constitution.

Collective actions are heard by the Labor Courts, State Courts, and Federal Courts.

Some scholars contend that a specific category of claim before the Electoral Courts (the action challenging an elected mandate) also constitutes a collective redress.

Territorial jurisdiction is determined by reference to the place where the damage occurred and the geographic reach of the harm.

Beyond territorial jurisdiction, within a given branch of the

judiciary, the distribution of jurisdiction among the various courts depends on local rules. Court organization law may provide for courts specialized in subject matters.

In many instances, jurisdiction over collective redress vests in the Public Treasury Courts.

There is a current movement in Brazil towards the creation of specialized courts under the "Justice 4.0" initiative, which operate entirely online without territorial constraints. Specialized courts for collective redress exist, at least, within the State Court system of São Paulo.

It is important to note that collective redress may not be filed before the Small Claims Courts (whether common, public treasury, or federal), which are designed for less complex matters of lower monetary value.

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

The Brazilian collective redress framework is robust and has an extensive track record of success. The effectiveness of collective actions is largely attributable to institutions such as the Public Prosecutor's Office, the Public Defender's Office, and the Government itself, which actively contribute to the resolution of collective disputes.

There are, however, significant challenges, particularly in complex, multifaceted disputes involving a large number of affected parties. In response to these challenges, the structural injunction – originating in the United States of America – has been adopted as a means of enhancing collective redress mechanisms.

More specifically, challenges to collective protection include: the territorial scope of collective decisions; *lis pendens* issues between concurrent collective redress; and limitations on enforcement.

Historically, there was debate concerning the territorial effect of judgments in public civil actions, as the applicable statute provided that decisions were valid only within the territorial jurisdiction of the issuing court. However, in 2021, the Federal Supreme Court, in ruling on Theme 1,075, declared Article 16 of Law No. 7,347/1985 unconstitutional, holding that judgments in collective redress have nationwide validity and effect.

A further challenge arises in relation to *lis pendens*, as the same damage may be pursued by multiple claimants with standing before different jurisdictions, giving rise to several parallel collective claims on the same subject matter. It is therefore appropriate for such proceedings to be consolidated before a single court in order to avoid

conflicting decisions.

Once the cognizance phase is concluded, the liquidation and enforcement of any resulting judgment also present significant challenges, both in terms of the practical implementation of collective orders and the difficulty of locating beneficiaries.

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

Brazilian collective redress encompasses the entire group whose disputed collective right is submitted to the Judiciary.

In Brazilian law, individuals have the option to opt out of collective legal protection (right to opt out). In this case, collective jurisdiction does not affect the individual's specific situation.

In this context, an individual can file an individual lawsuit regardless of the existence of a collective claim. And a collective claim does not create *lis pendens* in relation to individual lawsuits filed by individuals separately regarding the same subject matter.

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

The statutes comprising the Brazilian collective protection microsystem do not set out express formal requirements for the filing of collective actions. Accordingly, the provisions of the Code of Civil Procedure apply, specifically Article 319, which requires that the initial claim form specify:

- i. The court to which the petition is addressed;
- ii. The names, civil status, existence of a stable union, profession, individual taxpayer registry number or corporate taxpayer registry number, electronic address, domicile, and residence of the claimant and defendant;
- iii. The material facts and legal grounds of the claim;
- iv. The claim and its specifications;
- v. The value of the cause;
- vi. The evidence by which the claimant intends to prove the alleged facts; and
- vii. The claimant's election as to whether or not to attend

a conciliation or mediation hearing.

It is also considered best practice to identify and delineate in the initial claim form the class of right-holders whose collective rights are being asserted, together with an identification and delimitation of the beneficiaries.

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

The Public Prosecutor's Office need not appear as a claimant, but its participation in the proceedings is mandatory. Where it is not the claimant, it must act as guardian of the legal order.

The claimant in a collective redress must demonstrate its standing and adequate representativeness in accordance with the Public Civil Action Law.

Where a non-profit organization is the claimant, it must produce its articles of association and minutes of incorporation to establish that it has been in existence for more than one year, and must demonstrate thematic relevance between its activities and the right it seeks to protect (the protection of public and social patrimony, the environment, consumer rights, the economic order, free competition, the rights of racial, ethnic or religious groups, or artistic, aesthetic, historical, tourism, and landscape heritage must fall within its institutional purposes).

Class certification, as required under other collective redress models from other countries, is not required under Brazilian law.

Security for costs is not required, and there is no obligation to advance court fees.

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

Law No. 7,347/1985 (the Public Civil Action Law) and Law No. 8,078/1990 (the Consumer Protection Code) constitute the nucleus of the collective protection microsystem in Brazil.

Notwithstanding the foregoing, pursuant to Article 19 of Law No. 7,347/1985, the rules of the Code of Civil Procedure apply on a supplementary and subsidiary basis to collective actions.

Various provisions of the Code of Civil Procedure are

applicable to collective redress, including, for example, the mechanism for preliminary emergency relief (a preliminary injunction application filed prior to the main claim).

In addition, various provisions of ancillary legislation apply to collective redress, including Law No. 8,437/1992 (which governs, for example, the suspension of injunctions and judgments).

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

There is no objective benchmark for the duration of collective claims in Brazil, as each case has its own particular characteristics and complexities, varying depending on the structure of the court and the number of pending cases in that court.

That said, the CACOL Panel (National Registry of Collective Actions) records an average time of 605 days to first judgment (calculated as a rolling average of all proceedings in which a first judgment was handed down in the preceding 12 months, measured from the date of receipt of the claim to the date of first judgment) and an average overall duration of 755 days from filing to final disposition. These figures are based on the historical series of all collective actions (across all categories) since the year 2020.

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

Brazilian law does not distinguish between remedies available in ordinary proceedings and those available in collective redress proceedings. The provisions of the Code of Civil Procedure governing types of relief apply in full to collective protection.

Claimants may seek mandatory injunctions (obligations to act), prohibitory injunctions (obligations to refrain from acting), orders for delivery of specific or generic assets, and orders for payment of fixed monetary amounts.

Collective moral damage may also be claimed, understood as unlawful and serious harm to the collective moral sphere of a community, causing damage to collective values.

Beyond specific relief in respect of the protected right, the court may impose obligations to act or refrain from acting and, where appropriate, order the defendant to pay compensation to the collectivity or to each affected individual, depending on the nature of the collective right. The relief available depends on the substantive right in

dispute.

Prior to the commencement of the main action, Article 4 of Law No. 7,347/1985 permits the filing of a standalone interim application aimed at preventing imminent harm from materializing.

In addition to a standalone interim application, emergency relief may be sought incidentally within the main proceedings to halt or prevent harmful activities, prohibit abusive practices, or compel compliance with an obligation, subject to daily penalty. For example, in a consumer collective redress proceeding, recall of products from the market may be ordered; in an environmental claim, the suspension of a polluting activity may be ruled.

The court may further order the production of documents and information from competent authorities for the purpose of instructing the proceedings (Article 8 of Law No. 7,347/1985).

Measures to increase public awareness of the proceedings are encouraged, including publication in the official gazette of notice of the existence of the claim, so as to inform other interested parties (Article 94 of the Consumer Protection Code).

## 22. What is the measure of damages for any financial remedies for class actions or collective redress proceedings?

The Brazilian legal system adopts the principle of full and comprehensive reparation, pursuant to which compensation must correspond to the full extent of the harm actually caused.

Any category of damage may be the subject of collective redress proceedings, regardless of whether the amounts involved are modest or substantial. A complex issue frequently encountered is the determination of the extent of the loss and the quantification of the amount to be awarded to individuals or payable to the collectivity (collective moral damages), which often requires technical expert analysis and consideration of the specific circumstances of the case in light of prior decisions.

The assessment of damages varies according to the nature of the collective right at issue:

- In cases involving homogeneous individual rights, the collective judgment is typically generic in nature, limited to establishing the

defendant's liability and obligation to compensate. The quantification of damages is carried out subsequently, during the individual liquidation and enforcement phase, when each beneficiary must demonstrate the existence and extent of their specific loss.

- In cases involving collective rights *stricto sensu*, the compensation is designed to remedy the harm caused to the determined group, category or class of right-holders. The quantum of the award is fixed by reference to the extent of the proven collective damage, meaning that relief may take a monetary form or a specific form (obligations to act, obligations to refrain from acting, or restoration of the situation prior to the harm).
- In cases involving diffuse rights, where right-holders are indeterminate and connected by a common factual circumstance, the court fixes damages by reference to the gravity and extent of the harm, the degree of culpability or reprehensibility of the conduct, any benefit derived by the wrongdoer, and the need for effective restoration of the affected legal interest. Where specific reparation is not possible, the amounts are credited to funds for the protection of diffuse interests, such as the States or Federal Diffuse Rights Fund.

Amounts awarded for the benefit of the collectivity must be deposited into a fund. Pursuant to Article 13 of the Public Civil Action Law: "Where a monetary award is made, the compensation for the damage caused shall revert to a fund administered by a Federal Council or State Councils, in which the Public Prosecutor's Office and community representatives shall necessarily participate, the resources of which shall be directed towards the restoration of the harmed assets."

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

Brazilian law does not admit the doctrine of punitive damages.

Article 944 of the Brazilian Civil Code provides that "compensation is measured by the extent of the damage", thereby establishing a purely compensatory purpose.

Notwithstanding the foregoing, the doctrine of collective moral damages is well established, serving the following functions: (a) providing indirect reparation for the harm caused to the non-patrimonial sphere of the collectivity;

(b) sanctioning the wrongdoer; and (c) deterring conduct that is offensive to trans-individual rights (Special Appeal No. 1,643,365/RS, Rapporteur Justice Nancy Andrigli, Third Panel, decided 5 June 2018, published 7 June 2018).

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

At first instance, proceedings are assigned to a single judge, who conducts the case and delivers judgment. Only upon appeal will the matter be reviewed by collegiate bodies (Chambers, Panels, and Plenary Sessions of the Courts). The general rule in Brazil is that first-instance judges sit alone (with limited exceptions, such as in Military Courts), while courts of appeals adjudicate by way of collegiate panels of multiple judges.

The single judge is responsible for case management, procedural organization, and conducting the evidentiary phase, in addition to delivering the judgment.

Courts of appeals do not, as a general rule, receive fresh evidence; their role is to review the findings of fact and law determined at first instance.

The superior courts do not review evidence but solely ensure uniformity in the interpretation and application of the law.

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

Collective redress proceedings in Brazil are not subject to trial by jury. The jury system in Brazil has exclusive competence over intentional crimes against life. All civil actions, regardless of their scale or impact, are adjudicated by judges appointed through competitive public examinations, who hold tenure until retirement or the age of 75. Exceptional forms of appointment of judges exist only in the courts of appeals and superior courts.

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

In Brazil, amicable resolution of conflicts of interest is encouraged at every stage of proceedings.

The procedure for collective settlement is not prescribed

in law, but certain basic rules are set out in legislation. A settlement agreement may or may not be submitted for judicial approval; if not approved by the court, it nonetheless constitutes an extrajudicial enforcement title.

Article 5(6) of the Public Civil Action Law provides that "public bodies with standing may take from interested parties a conduct adjustment undertaking requiring compliance with legal requirements, subject to penalty clauses, which shall have the force of an extrajudicial enforcement title."

Settlement agreements must satisfy the basic validity requirements applicable to legal acts and may only be concluded by the Public Prosecutor's Office or public entities. Private parties and non-profit organizations, even where they are the claimant in a collective redress proceeding, do not have authority to conclude a collective settlement.

The conduct adjustment undertaking (TAC) is regulated, within the Public Prosecutor's Office, by Resolution No. 179/2017 of the National Council of the Public Prosecution, which provides (Article 1) that "the conduct adjustment undertaking is an instrument for guaranteeing diffuse and collective rights, homogeneous individual rights, and other rights for the protection of which the Public Prosecutor's Office is responsible, being a legal transaction the purpose of which is the alignment of conduct with legal and constitutional requirements, having the force of an extrajudicial enforcement title from the moment of its execution."

Such undertakings may be concluded prior to the filing of judicial proceedings, during the course of proceedings, or even after a judgment has been delivered (and become final and binding).

The undertaking must include a penalty for non-compliance or other enforcement mechanisms in the event of failure to comply with the agreed obligations within the stipulated timeframes.

In the context of structural injunction, amicable resolution is inherent to the procedure, as the outcome is achieved through institutional dialogue among the procedural actors – a feature most evident during the phase of elaborating the action plan by the responsible bodies.

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

Settlements in collective redress proceedings may be concluded before, during, or after the conclusion of judicial proceedings.

In the extrajudicial sphere, prior to the filing of public civil actions by the Public Prosecutor's Office (the principal entity with standing), it is common practice to utilize the conduct adjustment undertaking (TAC), which carries the force of an extrajudicial enforcement title (Article 784 of the Code of Civil Procedure) and may be enforced in the event of non-compliance.

A significant number of collective disputes are resolved by means of TACs, without the need for judicial proceedings.

A TAC does not require prior judicial approval but may be subsequently challenged before the courts if it is found to be defective.

The government may also enter into a TAC.

An extrajudicial TAC may be submitted for judicial approval, even in the absence of pending judicial proceedings. In such a case, the TAC acquires the status of a judicial enforcement title (Article 515 of the Code of Civil Procedure).

Where judicial proceedings are already pending (or where a judgment has already been delivered), any settlement requires judicial analysis and approval.

Any party to the collective redress proceeding who disagrees with a judicially approved settlement may appeal to the court of appeals.

## 28. Is there any prescribed procedural obligation to undertake alternative dispute resolution (outside of the court system) and, if so, a specified format?

There is no mandatory obligation to undertake alternative dispute resolution prior to the filing of collective redress proceedings. Brazil operates an open-access justice system, and there are very few situations in which pre-litigation steps are required before commencing proceedings – none of which apply to collective action matters.

There is an ongoing debate in Brazilian law regarding the potential conditioning of individual actions on prior proof of attempted extrajudicial resolution in certain circumstances (see, for example, Repetitive Theme No. 1,396 of the Superior Court of Justice, which raises the pending question of whether prior proof of an attempted

extrajudicial settlement is required to establish a legitimate interest in bringing consumer claims), but this debate does not extend to collective redress.

### **29. What litigation funding models are available for a class action or collective redress.**

Litigation funding is not common in collective redress in Brazil. Such funding is unusual in the Brazilian context, given that collective redress proceedings do not, as a general rule, attract court fees or adverse costs awards. Furthermore, the majority of collective actions are brought by public bodies.

Where non-profit organizations file collective redress proceedings, they typically bear the costs of their legal representation and proceedings themselves, with such costs ordinarily payable at the conclusion of the case.

In this regard, Article 17 of the Public Civil Action Law provides that “in cases of bad faith litigation, the association claimant and the directors responsible for filing the action shall be jointly and severally liable for legal fees and tenfold the court costs, without prejudice to liability for losses and damages.”

Article 18 of the same Law further provides that “in actions governed by this Law, there shall be no advance payment of court costs, fees, expert witness fees, or any other expenses, nor shall the association claimant be condemned to pay legal fees, court costs, or procedural expenses, save where bad faith is proven.”

There is no specific regulation governing litigation funding in Brazil. Under Brazilian law, various legal structures may be used for third-party litigation funding, including atypical contracts, the creation of Non-Standardized Credit Rights Investment Funds, assignment of credit claims, and the creation of limited partnership company.

It is worth noting that, on occasion, funding arrangements have been created to finance transnational collective redress proceedings (in foreign courts) arising from disasters that have occurred in Brazil, in situations where parallel collective and individual proceedings are also pending in Brazil.

### **30. Are there any restrictions on third-party funding of a class action or collective redress.**

In general terms, there are no restrictions on third-party funding, not least because it is a mechanism that has been little used and studied in Brazil.

Nevertheless, certain legal structures are inappropriate for third-party funding (e.g. loan agreements). For structures that are permissible under the legal order, the specific rules prescribed by law for each model must be observed (for example, in the case of Non-standardized Credit Rights Investment Funds, the rules of the Securities and Exchange Commission of Brazil must be complied with).

Depending on the interests of the third-party funder in a given collective redress proceeding, a court may take the view that interests of the funder are incompatible with the objectives of the collective redress proceedings.

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

Environmental matters remain the principal area of concern for business activity regarding collective redress litigation, particularly for companies engaged in the extraction of natural resources that carry out activities with the potential to cause pollution and environmental damage.

Corporate governance violations – business practices perceived as breaching corporate governance standards and causing market imbalances – are an area of growing risk, particularly for listed companies and those engaged in the sale of goods and services to consumers.

Data protection is an increasingly significant concern in a context where breaches of sensitive data and potential violations of the General Data Protection Law are on the rise in Brazil. Article 42(3) of the LGPD expressly authorizes the filing of claims in this regard.

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

Data from the CACOL Panel prepared by the National Council of Justice confirms that the environmental impact of business activity remains one of the most common causes of collective litigation.

This is followed by collective redress proceedings relating to healthcare law, notably in respect of consumer disputes arising in connection with private health insurance plans.

Structural disputes involving systemic failures in public policy (such as the provision of public services) have also

assumed increasing prominence in the Brazilian legal landscape.

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

The area of collective redress that is expected to see the most significant development is structural proceedings in Brazil.

The courts, including the Federal Supreme Court, have increasingly expanded the use of structural proceedings for the resolution of collective disputes, with the aim of providing more adequate and effective solutions to rights violations. Several recent STF decisions expressly refer to the structural proceedings framework.

Notably, the use of structural techniques has no express legislative basis in the Brazilian legal order, having been developed through precedents and doctrinal construction. It is now the subject of an express legislative proposal under Senate Bill No. 3/2025, which seeks to introduce structural proceedings formally into law.

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

Environmental issues have become one of the primary drivers of collective redress proceedings in Brazil, notably in connection with environmental pollution caused by business activities.

Social matters are also prominent, as evidenced by the large number of collective redress proceedings pending before the Labor Courts concerning discriminatory practices and harassment in the workplace.

Governance concerns are reflected in actions involving the mismanagement of directors and deficient transparency and accounting standards.

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

Several legislative bills are currently being processed in the National Congress (Chamber of Deputies – CD and Federal Senate – SF).

Three bills (Bill No. 4,441/2020, Bill No. 4,778/2020, and Bill No. 1,641/2021 – CD) seek to introduce new rules governing public civil actions, reforming the current collective procedural microsystem.

In addition, Bill No. 188/2024 (CD) proposes to amend the Consumer Protection Code to establish a maximum period for the suspension of individual proceedings stayed by reason of pending collective redress proceedings.

Finally, Senate Bill No. 03/2025 seeks to enact a Structural Proceedings Law. Among its principal provisions are the codification of the techniques to be applied in the procedure, the requirements that the decision accepting the dispute as structural must satisfy, and the requirements applicable to the structural action plan.

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