



**British Institute of
International and
Comparative Law**

COLLECTIVE REDRESS DENMARK



With financial support from the Civil Justice Programme of the European Union



Updated in collaboration with Aston University





**British Institute of
International and
Comparative Law**

Mission Statement

The British Institute of International and Comparative Law exists to advance the understanding of international and comparative law, and to promote the rule of law in international affairs.

Vision

To be a leading research institute of international and comparative law and to promote its practical application by the dissemination of research through publications, conferences and discussion.

Table of Contents

I.	General Collective Redress Mechanism.....	4
1.	Scope/ Type	4
a.	Class action	4
b.	Joinder of parties	4
c.	Representative actions	4
2.	Procedural Framework	4
a.	Competent Court	4
b.	Standing	5
c.	Availability of Cross Border collective redress.....	5
d.	Opt In/ Opt Out.....	5
e.	Main procedural rules.....	6
3.	Available Remedies	7
4.	Costs	8
a.	Class action	8
b.	Joinder of parties	9
c.	Representative actions	9
5.	Lawyers' Fees.....	9
6.	Funding.....	9
7.	Enforcement of collective actions/settlements	9
8.	ADR	10
9.	Number and types of cases brought/pending.....	10
10.	Impact of the Recommendation/Problems and Critiques, including.....	10
a.	Incompatibilities with the Recommendation's principles	10
b.	Problems relating to access of justice/fairness of proceedings including	10
II.	Sectoral Collective Redress Mechanism(s)	11
III.	Information on Collective Redress.....	12
IV.	Case summaries.....	13

I. General Collective Redress Mechanism

1. Scope/ Type

Class action has been possible under Danish law since 2008 as an in-court procedure based on private (Opt In) or public (Opt In/Opt Out) initiative. Joinder of claims and persons, representative action, including test cases, are also possible under Danish law. A variety of different out of court alternative dispute resolution (ADR) are also available regarding consumer matters.

a. Class action

On January 1st, 2008, Chapter 23a of the DAJA came into force. Since then, class action has been possible under Danish law. Chapter 23a of the DAJA is based on the Standing Committee on Procedural Law, Recommendation no. 1468/2005 on class action lawsuits.

The Danish class action scheme is horizontal and – as a starting point - based on the Opt In model. Furthermore, a public body authorised by law may act as a group representative in an Opt Out class action. So far only the consumer ombudsman has been authorised to act as a group representative. The areas where the consumer ombudsman may act as a group representative are specified in and number of different act regarding e.g. advertising, competition and financial regulation.

Access for injunctive and compensatory remedies is available under both the Opt In and the Opt Out model.

b. Joinder of parties

According to Section 250 (1) more than one party may sue or be sued in one action (“subjektiv kumulation”). Access to joinder of persons may be relevant to secure uniform decisions and reduce cost, where the evidences fully or partially are the same. The provision is flexible and includes access to both injunctive and compensatory remedies.

Joinder of persons has – as an example – been used in a competition damages cases brought against different undertakings accused of participating in a cartel (U.2016.1656S). The provision is, however, not limited to a specific sector but does apply horizontal.

Each joint claimant or defendant remains a separate party to the proceedings.

c. Representative actions

An organisation (e.g. workers union) may act as a represent (“mandatar”) in a test case on behalf of one or more of its members.

It is also possible for the consumer ombudsman to act as a represent on behalf of a consumer in disputes before ordinary courts between a consumer and a business. That is fairly common in Denmark (in contrast to class actions) - especially if a large group of similar claims are pending against the same defendant. As an example see U.2016.1062 Ø, regarding a claim against a Travel agency. The case was a test case and 833 similar consumer claims awaited the outcome of the decision.

2. Procedural Framework

a. Competent Court

There is no special “Court of class actions”. The provisions about the competent courts in the DAJA (chapter 21 and 22) apply to all civil cases, including class actions (and other available collective redress mechanisms).

Under Danish procedural law a case is initiated - as a starting point - either in City Court or the Maritime and Commercial High Court. Under certain conditions a case may start in in High Court with access to direct appeal to Supreme Court.

Decision from City Court and Maritime and Commercial High Court can be appealed directly to the High Court. It is also possible to apply the Supreme Court for direct access to appeal from the Maritime and Commercial High Court.

b. Standing

Class action

Civil claims submitted on behalf of a number of persons can be considered under a class action. However, class action is not possible in i.e. matrimonial cases, paternity cases and other indispositive cases, including cases leading to status judgments under family law.

Under Section 254c of the Danish Administration of justice Act (the Act), class actions are conducted by a class representative on behalf of the class. The class representative is appointed by the court. The representative may be (1) a member of the class (private group action), (2) an association, private institution or other organisation when the action falls within the framework of the organisation's object (organisational group action), or (3) by a designated public authority (public group action). Currently only the consumer ombudsman has been authorised under (3).

It is only the group representative who is the claimant and therefore a party to the proceeding. Members of the group are not parties to the trial, but rulings are binding for all members of the group.

Joinder of persons

The normal procedural rules apply. Accordingly, each individual claimant needs to have a legal interest in the outcome of the case.

Representative actions

One physical or legal person may act on behalf of another person (mandatar), if the person or organization has a legal interest in the outcome of the case. The scope of this legal interest depends of the area of law but in general, there is a tendency to interpret the concept "legal interest" more widely. Representative action is very limited regulated under Danish law but seems to work well. There are no national lists of entities authorised to bring claims but it will typically be an organisation (such as a trade union or a consumer organisation), if the question of the case falls within the purpose of the union. The consumer ombudsman could also act as a mandatar. The conditions laid down in para. 4 (a)-(c) of the Recommendation would normally apply to but it is not regulated by law. If a representative action is initiated as a way of bypassing the normal procedural rules, including loser pays principle, it will most likely be dismissed.

c. Availability of Cross Border collective redress

Normal rules, which cover international procedural law, are valid. There is no limitation as to the nationality of the group members or group representative. However, the court's decisions in a Opt Out class action only have binding effect on class members who could have been sued in Denmark for the claim in question when the case was first brought (see below under d).

d. Opt In/ Opt Out

Both the Opt In and Opt Out model is available under Danish law. However, only a designated public authority (currently only the consumer ombudsman) may bring an Opt Out class action.

According to Section 254e (5) of the DAJA, a class action includes those, who have joined the group (Opt in), unless the court according to section 254e (8), decides that the class action should include those who have not left the group (Opt Out).

According to Section 254e (8), a designated public authority can request the court that the group action must include the group members who have not opted out of the group action. In addition to the conditions specified above (under Opt In), the Opt Out model is only available, if the group action concerns claims where it is clear that the claims due to their small size cannot generally be expected to be promoted by individual actions and it is assumed that a group action with registration will not be an appropriate way of dealing with the claims. Accordingly, Opt Out is secondary to Opt In.

Currently only the consumer ombudsman has been authorised to act as a group representative in Opt Out class action and only within the following areas of law:

- The Marketing Practices Act (2013-09-25 no. 1216), Section 28 (2)

- The Payment services and electronic money Act (2015-04-24 no. 613), Section 97 (6)
- The Payment accounts Act (2016-04-27 no. 375), Section 15 (2)
- The Act on dealing with claims for breach of competition law (2016-12-13 no. 1541), Section 16
- The Act on Financial Activities (2017-01-31 no. 174), Section 348(1)
- The Investment Association Act and Section (2015-08-25 no. 1051), Section 170
- The Securities Trading Act (2017-03-21 no. 251), Section 3(3).
- The Act on financial advisors and mortgage brokers (2016-07-05 no. 1079), Section 11(5)
- The Act on property credit companies (2016-07-05 no. 1078), Section 12(2)
- The Act on managers of alternative investment funds, etc. (2016-07-06 no. 1074), Section 164

So far the consumer ombudsman has not acted as a group representative neither under the Opt In or the Opt Out model.

Both in relation to Opt In and Opt Out class actions the court sets a deadline for the class members to opt-in or out after having received the writ and appointed the class representative. The court can exceptionally allow a member to join, respectively opt-out of the action, after the deadline has elapsed if there are extenuating circumstances. Such circumstances are determined based upon the strength of the group member's explanation for their request to join or opt-out. The court would weigh this explanation against the harm it may provide to the defendant before ruling on the request. At present, no case law is available on the occurrence of this issue.

If a claimant wishes to leave the group before final judgement, the framework for the class action will probably have to be changed. That is only possible if the Court finds it "necessary". One reason to leave the group, that may satisfy this criterion is, if the claimant wishes to follow the claim himself due to new information.

It is a condition for bringing a class action, that the members of the class can be identified and informed of the case in an appropriate manner. Those persons whose claims fall within the framework of the class action must be informed of the terms and the legal effects of opting in or opting out of the action. This information is provided in a form specified by the court. In determining the form, the court will mostly likely consider (a) the particular circumstances of the mass harm situation, (b) freedom of expression, (c) right to information, (d) right to protection of the reputation, or (e) the company value of a defendant before its responsibility for the alleged violation or harm is established by the final judgment of the court.

The form specified by the court may include that the notification is made in whole or in part via public announcement and the court can require the class representative to carry out the notification. The costs of the notification are paid in the first instance by the class representative.

According to Section 254 f (2) of the DAJA, the court's decision in class actions based on the Opt Out model, only have binding effect on class members who could have been sued in Denmark for the claim in question when the case was first brought. The hypothetical action will typically be a negative action for recognition.

Under the Court homepage it is possible to get information (in Danish) about pending class actions.

e. Main procedural rules

Collective redress is – as a starting - subject to the general procedural rules of the DAJA concerning civil disputes, including the question of evidence and access to interim measures.

Under collective redress the presentation of *evidence* is – as in civil cases in general - the responsibility of the parties. According to Section 339 (3) of the DAJA, the court may regardless invite one of the parties to resent evidence, if the factual circumstances of the case are uncertain without such evidence.

A party or a third party is furthermore obliged to produce written evidence in his or her possession which may be presumed to have evidentiary value (see Section 298 and 299 of the DAJA). To obtain a court order, the applicant will have to identify the document with sufficient clarity. The condition is to prevent fishing expeditions.

If the other party does not obey to the order, the court may decide that it will have a negative procedural impact according to section 344(2). If the third party does not obey to the order, the court may, inter alia, issue a fine according to section 178.

The parties are also free to put questions to each other and call in witness under the main hearing.

Access to interim measures is regulated in the fourth division of the DAJA and does also apply in class actions cases according to Section 254 a (2).

Despite the similarities, there are also some differences in the procedural rules governing collective redress regarding class action and joinder of persons:

Class action

The conditions for bringing a class action (Opt In and Opt Out) are specified in the DAJA, chapter 23a.

According to Section 254a (1) common claims submitted on behalf of a number of persons can be considered under a class action. Under Section 254b(1), class actions can be brought when (1) there is a common claim as specified in Section 254a, (2) there is a venue for all of the claims in Denmark, (3) the court is the venue for one of the claims, (4) the court possesses the requisite expertise to deal with one of the claims, (5) class actions are judged to be the best manner of handling the claims (class action is secondary), (6) the members of the class can be identified and informed of the case in an appropriate manner, and (7) a class representative as per Section 254c of the DAJA can be appointed (see section b). According to case law, the decisive criteria will often be “similar claims” and “the best manner of handling the claims”. It is the court who decides whether the conditions are fulfilled.

A class action brought by a designated public authority under the Opt Out model needs furthermore to demonstrate that the claims due to their small size cannot generally be expected to be promoted by individual actions and it is assumed that a group action with registration will not be an appropriate way of dealing with the claims. Since the consumer ombudsman is the only designated public authority the claims also needs - as a starting point - to be a consumer claim (see section d).

Under Sections 254d and 348 of the DAJA, class actions are brought by submitting a writ to the court. The writ can be submitted by anyone who can be appointed class representative under Section 254c (1) (see section b). Apart from the normal requirements for writs under Section 348, the writ in a class action (both Opt In and Opt Out) must include a description of the group and how to identify and contact the group members. If the conditions are fulfilled the group representative is appointed by the court, and the court sets the framework for the class action. The court may subsequently alter the framework.

After having received the writ and appointed the class representative, the court sets a deadline for the class members to opt-in or out. The court can exceptionally allow a member to join, respectively opt-out of the action, after the deadline has elapsed if there are extenuating circumstances (see Section 254e (6) (for opt-in) and Section 254e (8) (for opt-out)). A court’s decisions in a class action have binding effect on the class members covered by the action.

Any settlement entered into by the class representative on claims covered by the class action becomes valid when the settlement is approved by the court under Section 254h of the DAJA. The court will approve the settlement unless the settlement discriminates against some class members or is otherwise patently unfair. Class members must be advised of the court’s approval of a settlement

Joinder of parties

According to Section 250 (1) more than one party may sue or be sued in one action where: (i) the Danish courts are the proper forum for all of the claims; (ii) the court is the proper venue for one of the claims; (iii) the court has subject-matter jurisdiction over one of the claims; (iv) all claims may be heard under the same procedural rules; and (v) none of the parties object, or the claims are connected to such an extent that they should be heard in one action notwithstanding any such objections.

3. Available Remedies

The remedies available under collective redress, including Opt In class actions, are the same available under normal the civil procedure e.g. injunction, damages, restitution of profit, interest or getting a court order obliging

the defendant to perform an act (e.g. terminate a contract) but not punitive damages or extra-compensatory. The process for temporary injunction relief is regulated in a special chapter of the Danish Administration of Justice Act (chapter 40). If a claim for the alleged infringement has not already been lodged with a Danish or foreign court or initiated by an arbitration tribunal, the person who has requested a temporary injunction shall within 2 weeks after the decision to grant an injunction is final, institute or initiate such a case. Such case may include claim for damages.

The remedies available under the Opt Out model seems limited to damages and interest due to fact that the (public) group representative (the consumer ombudsman) needs to demonstrate that the *claims due to their small size* cannot generally be expected to be promoted by individual actions. However, no case law is available regarding this issue.

It is possible to rely on an (final) injunction in a separate follow-on individual or collective damages action, if the parties are the same in both cases. Areas include where the Consumer Ombudsman has brought a case regarding an injunction (e.g. regarding advertising) but not damages. Consumers may subsequent bring an individual/collective follow-on damages case. The same would be the case, if the injunction is based on public enforcement (e.g. a decision from the Danish Competition authorities) and the decision is final (no access to appeal). This is usually the case in advertising and competition law. In these cases, the claimant needs not to prove the reasons for the injunctions under damages action and according that claimant has already – as a starting point – proved liability. A injunctive order (based on a final decision from a public authority) will – as a general rule - constitute very strong evidence of the infringement within the follow-on damages action. In a competition case it will be binding. Where there is a final decision from a public authority, the question of liability will therefore seldom be an issue. If the injunction case and the follow-on damages includes different private plaintiff, it is not possible to rely on the injunction (it would not be binding) in separate follow-on damages case. However, it may have precedent.

According to the Danish Administration of Justice Act (chapter 40) it is possible to apply for a temporary injunction. The chapter only deals with temporary injunctions and prohibition and the process is based on a summary proceeding. Accordingly, the process does not include damages. The process can be very fast (within a few days) depending on the subject of the case.

If a claim for the alleged infringement has not already been lodged with a Danish or foreign court or initiated by an arbitration tribunal, the person who has requested a temporary injunction shall within 2 weeks after the decision to grant an injunction is final, institute or initiate such a case. The case may include claim for damages. All civil claims (injunction and damages) are treated according to the same general rules in the Danish Administration of Justice Act (Third book). Accordingly, no diverging provisions depending of area of law.

According to the Danish Limitation Act, the standard limitation period is 3 years from the due date of the claim. The creditor's unawareness of the debt or the debtor may postpone the date at which time begins to run. The 3-year limitation period is supplemented by a 10-year maximum period. As regards claims for compensation for personal injury, environmental damage or damage caused by noise and vibrations, the maximum period is, however, 30 years. Having to wait on a final decision before commencing a collective follow-on claim may have a negative impact of the possibility to make want to opt in, because people simply has moved on in the life. It may also be difficult to collect evidence long time after the infringement.

4. Costs

Collective redress is - as other type of civil actions under Danish law - governed by the Loser Pay Principle, and the court has a wide discretion as to the award of "reasonable costs". The usual rule is that the loser of the action pays the costs of the winning party. However, this order can be varied where the conduct of the case by the winning party makes it unreasonable for the losing party to pay all or part of the winning party's costs.

a. Class action

The group representative is – as a starting point – liable for cost. Nevertheless, according to Section 254 f (3), a class member can also be ordered to pay legal costs to the opposite party and/or the class representative, if the court have decided that joining the class is condition upon the member's proving the providing security for legal costs specified by the court unless the member has legal aid insurance or other insurance which covers the costs of the case, or the class action fulfils the terms for free legal aid and the member fulfils the financial conditions in the Act (see Section 254e, (7)).

If security is demanded from each member of the class, this security amount is at the same time the maximum cost that will have to be carried by the class member plus such amounts that are collected to the member through the case. It is accordingly possible to know what the maximum litigation risk will be before joining the group.

A class member can be ordered to pay legal costs to the opposite party and/or the class representative. The opposite party's claim takes precedence over that of the class representative. The class member cannot be ordered to pay legal costs over and above the amount specified under Section 254e(7) of the Act, i.e. the security provided plus any sum owing to the class member as a result of the case. If the plaintiff loses the case, he or she will have to pay legal cost to the group representative but not the group members

b. Joinder of parties

Each individual claimant is responsible for the cost.

c. Representative actions

The person representing the claimant is responsible for the cost.

5. Lawyers' Fees

Lawyers' fee is under Danish law based on, inter alia, time used, legal nature of the issues, and the result of the case. It is not possible to enter into a contingency fees or risk agreements. The court decides how much the losing party has to pay on lawyer's fee to the winning party. However, in instances where the winning party may have another agreement with his lawyer concerning fee, the winning party's lawyers fee is therefore not always covered. This approach to lawyers' fees does not create an incentive to litigate nor does it lead to abusive litigation/frivolous claims or an increase in unnecessary litigation.

6. Funding

Different forms of funding are available under Danish law, including public, private and third party legal funding. A claimant party is not required to declare the origin of any funding to the court at the outset of proceedings. It is possible to apply the Department of Civil Affairs for free process. However, the group members can not apply. Instead, the group representative may apply for free process for the entire group action.

Besides free process granted by the public, private legal aid covered by insurance companies (normally through the family insurance) also applies for class actions.

Third-party funding is not forbidden but does not seem widespread in practice. There is no specific regulation regarding third-party funding. Additionally, lawyers handling cases are forbidden from using their own finances to support their cases.

7. Enforcement of collective actions/settlements

According to section 478 (1) of the DAJA enforcement may be made on the basis of, inter alia, a judgement or a settlement concluded before a before the courts. A judgment or a settlement in a class action may therefore be enforced under Danish law. Anyone who deliberately violates a prohibition or injunction may be sentenced to a fine or imprisonment for up to 4 months, and in connection with this, be ordered to pay compensation. The same applies to the person who deliberately assistance to violate the prohibition or injunction. Furthermore, if a ban or injunction has been issued, the court of law shall, upon request, provide the person who has obtained the ban or injunction (requester), assistance for maintaining the ban or injunction, including by preventing the breach of the ban by ensuring compliance with the injunction or by destroy what has been done in violation of the prohibition or injunction.

A judgment becomes enforceable on expiry of the waiting period unless an appeal has been filed before the expiry of the waiting period. The waiting period is 14 days of the date of the judgment unless otherwise provided in the judgment.

According to section 479 the Minister of Justice may lay down rules to the effect that decisions by foreign courts and public authorities on civil claims and agreements concerning such claims are enforceable in Denmark if they are enforceable in the state in which the decision was made or subject to the laws of which the agreement is to be judged and if such enforcement would not be obviously incompatible with the legal order of Denmark.

Denmark has signed an international agreement with the European Community to apply the provisions of the Brussel I Regulation between the EU and Denmark. The Brussel I Regulation has been implemented into Danish Law by law no. 1563 dated 20. December 2006.

8. ADR

There is a great number of ADR mechanisms available before litigation. These mechanisms seek to settle a high number of small individual claims before they are progressed to the courts. If the defendant firm does not comply with these ADR rulings, the consumer ombudsman may take the question to court on behalf of the consumer or a group of consumers. These court proceedings may be commenced over the same issues whilst ADR proceedings are taking place. The ADR proceeding would normally be stayed during the litigation. There are no collective ADR mechanisms available.

9. Number and types of cases brought/pending

No official information is available regarding number of cases brought. However, since 2008 at least nine class actions have been approved under the Opt In model (see below). As mentioned above, no class actions under the Opt Out model has been brought so far.

Information of pending cases is available on the homepages for the Danish Court System. (<http://www.domstol.dk/selvbetjening/gruppe/Pages/default.aspx>). Four cases are currently pending.

10. Impact of the Recommendation/Problems and Critiques, including

Impact of the collective mechanism (or lack of) on behaviour/ policy of stakeholders (direct/ indirect, economic/social impact)

The Danish class actions scheme was evaluated in 2014 by the Danish Justice Department. The conclusion was that the scheme works as anticipated and that there is no ground for changes. There is no reference to the Recommendations from 2013 in the evaluation.

a. Incompatibilities with the Recommendation's principles

As mentioned above, third party funding is possible under Danish law. Since it is self-regulated and not (yet) common, it is not clear whether and how the courts ensure compliance with the Recommendation, especially p. 16 and p. 32.

Due to the Danish 10-year maximum limitation period, it may - within some areas (e.g. competition cases) – not always be possible to postpone a class action until after the decision from the public authority has become final. Accordingly, a group representative may have to take the chance and initiate a class action based on a decision from a public authority, which has not become final and therefore may be changed. That may be in conflict with the recommendation, especially p. 34.

b. Problems relating to access of justice/fairness of proceedings including

Since a class action needs to be approved by the court, it seems to limit the risk for abusive litigation. In particular the condition that the class action is judged to be the best manner of handling the claims seems to establish a wall against groundless actions.

Deciding on procedural issues, including approval of the class action, size of security and identification of the group, may delay the legal process. Therefore, verification of a claim at the earliest opportunity is rarely possible. In the meantime a court ruling in an individual proceeding concerned with the same matter may create ground for a settlement. If the individual case is not handled properly it may become a disadvantage for the class action.

Financing seems also to be difficult, if the class action does not get free process.

So far the consumer ombudsman has not filled any class actions. In 2014 the Justice Department evaluated the class action scheme introduced in 2008 based on input from key stakeholders. According to the consumer ombudsman, the mere possibility to file a class action has improved the ombudsman's chances to reach a settlement, especially within the financial sector.

II. Sectoral Collective Redress Mechanism(s)

As specified under Section II the consumer ombudsman may act as group representative in an Opt Out class action within specific (consumer) areas of law.

III. Information on Collective Redress

A summary of all pending class actions in Denmark can be viewed on the Danish Court Administration's website at www.domstol.dk. The information is only in Danish.

There are no official databases that allow plaintiffs and courts to find out about competing individual actions in other fora.

IV. Case summaries

As mentioned above, most of the class action cases brought in Denmark have been settled before reaching a final judgement. Accordingly, the case law below is mostly concerned with procedural questions raised during the procedure.

<p>Case name: bankTrelleborg</p> <p>Reference: U.2012.1228H - The Supreme</p> <p>Subject area: Securities</p>	<p>Keywords: Class action (Opt In), Securities</p> <p>Summary of claims: Before having to file for bankruptcy, bankTrelleborg was taken over by another Danish bank, Sydbank. The former shareholders of bankTrelleborg filed three class actions afterwards regarding: (i) the legality and sale price under the takeover; (ii) errors and omissions in a prospectus made public before the takeover in connection with a public offering; and (iii) errors and omissions in that prospectus in a claim brought by investors who bought shares in the secondary market.</p> <p>Findings: The first case was won by the defendant (Sydbank). The second two were settled. Probably because the Danish Supreme Court in an individual proceeding had found that the prospectus did not give a correct description of the bank's financial situation.</p> <p>Outcomes Settlement: Yes Remedy: Yes Amount of damages awarded: In total approximately 18.153.850 Euros, including legal cost.</p>
<p>Dispute resolution method Class action (Court) and settlement</p>	
<p>Cross-border character/implications, if any Non</p>	
<p>Opt In</p>	
<p>Type of funding Free process</p>	
<p>Costs: Loser Pay Principle</p>	
<p>Abusive litigation: No</p>	

<p>Case name: The hedge fund case</p> <p>Reference: U.2012.1561 V - The High Court of Western Denmark</p> <p>Subject area: Procedure, investment</p>	<p>Keywords: Group action approved, individual differences, damages</p> <p>Summary of claims Question of damages. An association consisting of approximately 1,100 investors filed a class action against a hedge fund and a bank, holding them jointly liable for the investors' losses in the hedge fund.</p> <p>The class action was approved by the court (see U.2012.1561 H) but a settlement was reached before a final judgement on the merits.</p> <p>Findings: Based on an overall assessment The High Court approved the class action despite individual differences regarding the circumstances under which the investments in the fund had been made.</p> <p>Outcomes</p>
<p>Dispute resolution method Class action (Court) and settlement</p>	
<p>Cross-border character/</p>	

implications, if any Non	Settlement: Yes Remedy: Yes
Opt In	Amount of damages awarded: In total approximately 18.153.850 Euros, including legal cost
Type of funding No information	
Costs: Loser Pay Principle	
Abusive litigation: No	

Case name: Wutzerath Parken	Keywords: Group action approved, size of security
Reference: U.2011.1596 V - The High Court of Western Denmark U.2012.2938 H – The Supreme Court of Denmark V.L. B-0049-11- The High Court of Western Denmark	
Subject area: Procedure, Contract law	Summary of claims Question of damages. An association of investors filled a class action against providers of a wind a windmill project. Before reaching a final judgement, two procedural questions were addressed. Firstly, whether the case should be accepted as a class action. Secondly, the size of the security for group. Findings: The case was accepted as a class action (U.2011.1596). The size of the security for legal cost (in first instance) should only cover costs in connection with the first instance - not also legal cost in case of a possible appeal (U.2012.2938 H). The providers was found not liable to the group (V.L. B-0049-11)
Dispute resolution method: Class action / Court judgement	Outcomes Settlement: No Remedy: No Amount of damages awarded: Non
Cross-border character/ implications, if any One of the providers was a German corporation. No information regarding implications.	
Opt In	
Type of funding No information	
Costs	

Loser Pay Principle	
Abusive litigation No	

Case name: Roskilde Bank	Keywords: Private class action, procedural hindrance
Reference: U.2016.104Ø - The High Court of Eastern Denmark	Summary of claims: Question of damages. An association of former employers to a bank under bankruptcy, wanted to file a class action regarding damages because they had brought sheers in the bank.
Subject area: Procedure, Securities	Findings: The case was dismissed because the individual claims were not considered "common claims".
Dispute resolution method Class action / Court	Outcomes Settlement: No Remedy: No Amount of damages awarded: Non
Cross-border character/ implications, if any Non	
Opt In	
Type of funding No information	
Costs Loser Pay Principle	
Abusive litigation No	

Case name: Foreningen Garantloekken	Keywords: Private class action, procedural hindrance
Reference: V.L. B-0465-16 - The High Court of Western Denmark	Summary of claims: Private class action against Finansiell Stabilitet (a state-owned company) filed by an association of guarantors in a savings and loans institution taken over by Finansiell Stabilitet during the financial crisis.
Subject area: Procedure	Findings: The case was dismissed because a class action against Finansiell Stabilitet was not considered the best way to deal with the claims.
Dispute resolution method Class action / Court	Outcomes Settlement: No
Cross-border character/	

implications, if any No	Remedy: No Amount of damages awarded: Non
Opt In	
Type of funding No information	
Costs Loser Pay Principle	
Abusive litigation No	

Case name: Fonden Live	Keywords: Private class action, pension Summary of claims: Higher payment to pension fund. Findings: The group (former workers in SAS) lost the case in first instance and the case is now under appeal. Outcomes: The case is still pending
Reference: B-3159-11 - Copenhagen City Court	
Subject area: Contract law,	
Dispute resolution method Class action / Court	
Cross-border character/ implications, if any No	
Opt In	
Type of funding No funding	
Costs: Loser Pay Principle	Settlement: Remedy: Amount of damages awarded:

Case name: Viborg Heating	Keywords: Private class action, consumer claim Summary of claims: Question of damages. An association of consumers against the board of directors of an energy plant following a failed geothermic project. The cost of the loss was covered by raising charges for the consumers. Findings: The case is not yet approved as a class action. Outcomes: The case is still pending
Reference: The High Court of Western Denmark	
Subject area: Contract law,	
Dispute resolution method Class action / Court	
Cross-border character/	

implications, if any	Settlement: Remedy: Amount of damages awarded:
No	
Opt In	
Type of funding	
Free process	
Costs	

Case name: Foreningen Ring 3	Keywords: Private class action, Contract law Summary of claims: Odense Municipality's failure to fulfill the seller's loyal disclosure obligation in connection with the municipality's sale of building sites Findings: The case is still pending. Outcomes Settlement: Remedy: Amount of damages awarded:
Reference: BS 1-91/2014 – Odense City Court	
Subject area: Contract law	
Dispute resolution method	
Class action / Court	
Cross-border character/ implications, if any	
No	
Opt In	
Type of funding	
No information	
Costs	
Abusive litigation	

Case name: Amagerbank	Keywords: Private class action, Damages Summary of claims: Question of Finansiel Stabilitet and Finanstilsynet in their proceedings in relation to Amagerbanken are liable for the investors who subscribed to the capital increase in Amagerbanken who afterward was declared bankruptcy. Findings: The case is still pending Outcomes Settlement: Remedy: Amount of damages awarded:
Reference: B-3287-13 - The High Court of Eastern Denmark	
Subject area: Securities	
Dispute resolution method	
Class action / Court	
Cross-border character/ implications, if any	
No	
Opt In	

Type of funding No information	
Costs	
Abusive litigation	

Case name: Domstolsstyrelsen	Keywords: Private class action, Damages, Public liability Summary of claims: Question of damages due to the introduction of the digital registration by the Court of Denmark. Findings: The case is still pending Outcomes Settlement: Remedy: Amount of damages awarded:
Reference: B-3159-11 – The High Court of Eastern Denmark	
Subject area: Public liability	
Dispute resolution method Class action / Court	
Cross-border character/ implications, if any No	
Opt In	
Type of funding Free process	
Costs	

Charles Clore House
17 Russell Square
London WC1B 5JP

T 020 7862 5151
F 020 7862 5152
E info@biicl.org

www.biicl.org

A company limited by guarantee
Registered in England No. 615025
Registered Charity No. 209425



**British Institute of
International and
Comparative Law**