



THE ONLY GLOBAL ASSOCIATION OF YOUNG LAWYERS

Erin Brockovich turns European : is there an interest for class actions?

Litigation/Antitrust/Distribution law Commissions

Prague, 2014

National Report of Israel

By: Tamar Dolev-Green, Shiran Shabtai,

of Epstein Knoller Chomsky Osnat Gilat Tenenboim & Co.

Company/firm's name
Street address,
Zip, country
Telephone number
Email address

Epstein Knoller Chomsky Osnat Gilat Tenenboim & Co. Law Offices

Rubinstein House, 9th floor

20 Lincoln St, Tel Aviv

67134 Israel

T: +972 3 5614777

+972 3 5617577

F: +972 3 5614776

+972 3 5617578

E: tamar@ekt-law.com

shirans@ekt-law.com

W: www.ekt-law.com

General Reporters

<p>Jean-Philippe Arroyo J.P. Karsenty & Associés 30, rue d’Astorg 75008 – Paris – France + 33(0)1.47.63.74.75. jpharroyo@jpkarsenty.com</p>	<p>Joost Fanoy BarentsKrans N.V. Lange Voorhout 3 Postbus 30457 2500 GL Den Haag – The Netherlands +31 (0)70 376 07 50 joost.fanoy@barenskran.nl</p>
--	---

[23] [February] [2014]

INTRODUCTION

Class actions are often related and associated to the American legal culture, as it is illustrated by several movies including the famous “Erin Brockovich” picture.

However, the class actions or collective redress actions exist also in other jurisdictions, notably in Europe.

Precisely, the European Commission has recently given an accurate definition of collective redress and of its aim in its communication named “Towards a European Horizontal Framework for Collective Redress”¹, accompanying its “Recommendation on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law”²:

“Collective redress is a procedural mechanism that allows, for reasons of procedural economy and/or efficiency of enforcement, many similar legal claims to be bundled into a single court action. Collective redress facilitates access to justice in particular in cases where the individual damage is so low that potential claimants would not think it worth pursuing an individual claim. It also strengthens the negotiating power of potential claimants and contributes to the efficient administration of justice, by avoiding numerous proceedings concerning claims resulting from the same infringement of law.”

Although collective redress and class actions exist in several jurisdictions in the world, there are some differences arising from different legal and procedural cultures, notably between the Common Law and the Civil Law legal systems.

¹ COM(2013) 401/2

² C(2013) 3539/3

Thus, the purpose of this questionnaire is to identify such differences as well as the common points between the collective redress and class actions in various jurisdictions.

There is also a particular focus on class actions in the anti-trust field, which is one of the main areas for such actions, as shown by the recent proposal for an EU “Directive on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union”³.

³ COM(2013) 404 final

1. Existence and scope of class actions/collective redress actions

1.1 In your jurisdiction, is there any specific legislation dealing with class actions/collective redress actions, and is there a specific definition of such actions?

In 2006, the Class Actions Law 5366-2006 (“the law”) was signed into law. This legislation extracted the provisions regulating class actions from other laws, inter alia, the Antitrust Law, and set out an independent regime regulating the conduct of class actions. The Class Actions Law and the regulation thereunder, regulates, inter alia, the legal requirements for the commencement of a class action such as issues of legal standing, the legal requirements to bring a class action and the relief that may be claimed. The Class Actions Law defines class action as follows:

“Class action” – an action carried on in the name of a group of persons who did not authorize the representative plaintiff to do so, and which raises substantive questions of fact or of Law that are common to all members of the group;”

1.2 Are class actions/collective redress actions applicable to any legal action, irrespective of the legal ground and the area of law, or do they have a scope limited to some fields of law (such as consumer law, competition law, environmental law...)?

A class action may be brought only pursuant to the laws specified in the second supplement of the Class Action Law, or in other specific law/s which explicitly enables the submission of class actions.

1.3 Is there any interplay between several statutes, for instance between competition law and consumer law statutes? Is it allowed to bring a class action / collective redress action on the ground of several statutes, or is it mandatory to ground it on either set of statutes?

There is no general prohibition on the submission of a class action based on several causes of action (alternative or cumulative), provided that they are all admissible according to the second supplement of the Class Actions Law (or other specific laws as mentioned in 1.2 above).

1.4 Is it allowed to initiate summary/emergency proceedings in class actions / collective redress actions?

The class action Law and regulations thereunder are silent regarding the possibility to initiate summary/emergency proceedings. However, for that purpose the Class Actions regulations refer to the Civil Procedure Regulations, which allow the initiation of such proceedings in the main action. The courts' rulings are inconsistent regarding the admissibility of such proceedings prior to the approval of an action as a class action. (Civil application 8615/06 **Jan v. Altman Pharmaceuticals** (26.3.08), Civil application 17537/07 **Frank v. Olsale.com Ltd.** (15.10.07)).

1.5 Through class actions/collective redress actions, is it possible to claim cessation of unlawful practices/behaviors (“injunctive relief actions”) and/or to claim compensation for damage suffered (“compensatory relief actions”)?

Yes. It is possible to claim cessation of unlawful practices/behaviors and/or to claim compensation for damage suffered.

1.6 If it is possible to claim compensation, can every type of damage suffered by the victims can be compensated, or only some types of harms (material damages/bodily injuries, death)?

All types of damages that can be proven may be claimed by the plaintiff (including compensation for other than monetary damage). Nevertheless, the court may not adjudge exemplary compensation.

1.7 Can the compensation awarded to the victims exceed the compensation that would have been awarded if the claim had been pursued by means of individual actions? More particularly, are punitive damages, leading to overcompensation in favour of the claimant party of the damage suffered, allowed and applied in class actions / collective redress actions?

No, the compensation awarded to the victims cannot exceed the compensation that would have been awarded had the claim been pursued by means of individual actions. Punitive damages are not allowed.

1.8 More particularly in the anti-trust field, how does the ‘passing on’ defence (demonstrating that the claimant passed on the whole or part of the overcharge resulting from the infringement) play a role in your country and have such a defence been successful?

While attempts have been made during the years to use the pass-on defence in several antitrust law cases, the courts have not yet explicitly ruled on the issue.

2. Standing and admissibility to bring class actions/collective redress actions

2.1 In your jurisdiction, may the class actions / collective redress actions be brought by any group of individuals or legal persons claiming to have been harmed by the same alleged infringement (“collective actions”), and/or can they be brought by an authorized representative entity/ ad hoc certified entity/ public authority on behalf and in the name of two or more individuals or legal persons claiming to be victims of the relevant practice (“representative actions”)?

According to section 4 of the Class Actions Law the following may petition the Court for approval of a class action:

(1) any person who has grounds for an action or matter said in the second supplement of the law, which raises substantive questions of fact or law common to all members of a group of persons – in the name of that group;

(2) a public authority as defined in the Law, in an action or matter said in the second supplement of the law, that is within the sphere of one of the public purposes in which the public authority engages – in the name of a group of persons, if that action or matter raises substantive questions of fact or Law common to all its members;

(3) an organization, as defined in the Law, in an action or matter said in the second supplement of the law that is within the sphere of one of the public purposes in which the organization engages – in the name of a group of persons, if that action or matter raises substantive questions of fact or Law common to all its members, provided that the court is satisfied that under the circumstances of the case it would be difficult to bring the petition by a natural person.

(4) the Israel Consumer Council, as defined in the Israel Consumer Council Law 5768-2008, may apply for the approval of an action as a class action, even if it is not difficult for a natural person to submit the petition.

2.2 Are there any criteria/rules defining the cases where one or another kind of actions referred to in 2.1 could apply?

There are no specific rules defining the cases where one or another kind of actions could apply, except that where a class action is brought by an organization (excluding the Israel Consumer Council), the court must usually be convinced that the claim cannot be brought by a natural person.

2.3 In case of representative actions, are there rules defining the requirements for representative entities (for instance: a non-profit character; a relationship between the main objectives of the entity and the rights that are claimed to have been violated; financial/human resources/legal expertise requirements...), and can the representative entities be sanctioned if they do not comply with such requirements?

The entities that may apply for the approval of a class action are specified in section 2.1 above.

The Class Actions Law defines an Organization as a corporate, other than a statutory corporation or a religious trust that exists and operates regularly and actually during at least one year for the advancement of one or more public purposes, and its assets and income being used only for the achievement of public purposes, provided that its activity is not on behalf of a political party or of some other political body, or in relation with such party or for the advancement of their purposes;

A Public Authority, which may also submit an application for the approval of a class action, is defined in the first supplement of the Law as:

1. The Commission for Equal Rights for Persons with Disabilities;
2. the Nature Protection and National Parks Authority;
3. the Commission for Equal Opportunities at Work.

A representative entity that does not comply with the aforesaid requirements may not apply to the court for the approval of a class action and may be personally sanctioned with legal costs. The court may also replace the representative if it finds the representative unsuitable.

2.4 Is the admissibility of a class action / collective redress action examined by the courts at an early stage of the proceedings, or is it ruled together with the merits of the case?

The Israeli class action procedure is divided to two stages. At the first stage the court examines the admissibility of the class action and approves it if it finds that all the following conditions are met:

- (1) the action raises substantive questions of fact or of law in common to all members of the group, and it is reasonably possible that they will be resolved in the group's favor;
- (2) under the circumstances of the case, a class action is the efficient and fair way for a resolution of the controversy;
- (3) there are reasonable grounds to assume that the interest of all members of the group will be well represented.
- (4) there are reasonable grounds to assume that the interest of all members of the group will be represented and conducted in good faith.

If the court accepts the application to hear the action as a class action, then the main case is heard as a class action.

2.5 Is it possible for third parties to bring actions? If so, are indirect purchasers able to bring actions with respect to antitrust infringements?

Generally, the law allows any person that has suffered damages, including third parties, provided that they have admissible cause for a class action.

2.6 How may claims be aggregated? For example, is it possible for multiple plaintiffs to file a complaint jointly?

It is possible for multiple plaintiffs to file a complaint jointly.

Moreover, if the court notes that a previous petition for approval or a previous class action is pending, in which common issues of fact or of law arise that are similar to the issues raised in the petition before it, then the court may – if it deems it justified to do so under the circumstances – order that the hearing of the petition for approval be transferred to the other court.

If, in addition to the similarity of issues there is also essential similarity in the groups represented in the two actions, then the court shall order that the hearing of the later petition for approval be transferred to the court of which the former petition for approval or the former class action is being heard.

2.7 More generally, what procedural defences are available for defendants short of trial and therefore before the national court decides on the merits of a collective action?

A defendant may raise three preliminary arguments:

1. That the plaintiff does not comply with the requirements of Section 4 of the Law, that is to say the plaintiff is not the suitable plaintiff.

2. A defendant may argue that the action should not be approved since the requirements of Section 8 of the Law are not met, that is to say: the action does not raise substantive questions of fact or of law in common to all members of the group; it is unreasonably possible the matter will be resolved in the group's favor; under the circumstances of the case, a class action is not the efficient and fair way for a resolution of the controversy; there are no reasonable grounds to assume that the interest of all members of the group will be appropriately represented and conducted by the plaintiff; there are no reasonable grounds to assume that the interest of all members of the group will be represented and conducted in good faith.

3. If a petition for approval was brought against the State, any of its authorities, a local authority or a statutory corporation, an entity which provides an essential service to the public, a banking corporation, stock exchange, a clearing house or an insurer, the defendant may claim that the class action is expected to cause severe harm to the public compare to the expected benefit to the members of the group and/or to the public. If the damage cannot be avoided by approval of the application with changes

(according to Section 13 of the Class Actions Law), then the court may take that into consideration when it decides whether or not to approve the class action.

3. “Opt-in” vs “Opt-out” systems and information on the class action/collective redress action

3.1 In your jurisdiction, is the claimant party/group formed on the basis of express content of the natural or legal persons claiming to have been harmed (“opt-in” principle), or is it composed of all individual belonging to the defined group and claiming to have been harmed by the same or similar practice unless they actively opt out of the group (“opt-out” principle)?

Generally, when the court has approved a class action, then in its decision it shall define the group in whose name the action shall be conducted. This definition applies to all individuals belonging to the defined group and claiming to have been harmed by the same or similar practice unless they actively opt out of the group within 45 days from the day on which the Court's decision to approve the class action was published or within a longer period prescribed by the court.

Nevertheless, in special circumstances, the court may order to include only claimants who inform the Court in writing – in a manner and by the time prescribed by the Minister of Justice – that they desire to join to the action, provided that it is reasonably possible to identify and locate the members of the group in whose name the petition for approval was brought, and to inform them of the class action's approval, all at a reasonable cost. (This option seems to be unfeasible in class actions brought pursuant to the Antitrust Law or the Securities Law.

3.2 What are the effects of the judgment on the victims in the “opt-in” or “opt-out” system chosen in your jurisdiction?

The judgment in a class action shall constitute a binding ruling in respect of all members of the group, in whose name the class action was heard, except where the Law explicitly provides otherwise.

3.3 May a member of the claimant party be free to leave the claimant party at any time before the final judgment is rendered or the case is otherwise settled, and if he/she/it may, on which conditions?

After the court has approved the class action, every member of the group defined by the court is deemed to have agreed that the class action will be brought on his behalf, unless he informed the Court of his desire not to be included in the group **within 45**

days from the day on which the Court's decision to approve the class action was published or within a longer period prescribed by the Court.

The court may, on application of a member of the group who asks not to be included in it, to extend the period for leaving the group, if it finds that there is a special reason for doing so.

3.4 May a natural or legal person claiming to have been harmed in the same mass harm situation be able to join the claimant party at any time before the judgment is rendered or the case is otherwise settled?

Section 10(b) to the Law enables the court to permit a person to be added to the group it defined, no later than the date it shall prescribe for that purpose.

3.5 Is the defendant informed about the composition of the claimant party, and in which conditions?

Within its decision to approve a class action petition, the court defines the group on which name the action shall be conducted.

3.6 Are there any provisions regulating the way the victims of the practice are informed about a possible or actual class action / collective redress action? More particularly, are there safeguards regarding the protection of the reputation or the company value of the defendant before (and after) its responsibility for the alleged infringement is established by the final judgment?

Section 25 of the Law lists the subjects on which a notice should be given to the members of the group, among them the Court's decision to approve a class action.

The version of notices, its format and how it should be presented shall be brought to the court's approval before it is published. Publication of a notice under this section shall be in the manner and at the time set by the court, and it may prescribe different manners of publication for different categories of group members, all while taking into account – inter alia – the following considerations:

1. the expenses involved in a form of publication and the degree of its effectiveness;
2. the extent of monetary compensation or other relief that each member of the group is likely to be entitled to, if the class action is decided in the group's favor, and the extent of the damage liable to be caused to each member of the group, if the class action is rejected;
3. the estimated number of group members and the ability to identify and locate them with reasonable effort and at reasonable cost;
4. the ability to give notice personally to group members with a reasonable effort and at reasonable cost, also through continuous communication in existence between a party and some or all members of the group;

5. special characteristics of group members, including language.

To the best of our knowledge, there are no specific safeguards regarding the protection of the reputation or the company value of the defendant before (and after) its responsibility for the alleged infringement is established by the final judgment. However, Section 8(b)(2) of the Class Actions Law determines that where a class action submitted against an entity providing essential service to the public, a bank, an insurance company or the stock exchange, might cause harm to the public as a result of undermining the defendant's economic stability, and provided that the damage may not be mitigated by approving the class action application with changes, then the court may take that into consideration when deciding whether or not to approve the class action.

3.7 Is there any registry of class actions / collective redress actions in your jurisdiction? If there is such a registry, how is it possible to access it?

Section 28 of the Law states that the Director of Courts shall keep a Registry of Class Actions, in which the notices given him under sections 6(a), 10(b), 14(b), 16(d)(3), 18(c), 19(e) and 25(g), of the, Law as well as every other particular prescribed by the Minister of Justice, shall be registered; the Registry, as well as the documents delivered to the Director of Courts with the said notices, shall be open for viewing by the public on the website of the Directorate of Courts at http://elyon1.court.gov.il/heb/tovanot_yezugiyot/list.htm .

4. Interplay of class actions / collective redress actions and public enforcement

4.1 In your jurisdiction, do class actions / collective redress actions have to follow on from infringement decisions adopted by public authorities in regulated policy areas like competition law (“follow-on actions”) or is it possible to start a stand-alone action (ie, without a prior finding of infringement of any applicable antitrust laws by a national court or competent authority)?

Both follow-on actions and stand-alone actions are possible.

4.2 Are such stand-alone and/or follow-on actions available for both bilateral antitrust infringements (eg, a cartel) as well as unilateral antitrust infringements (eg, an abuse of a position of dominance)?

Yes.

4.3 In such cases, are there rules regulating access by claimants to documents obtained or produced by the public authority in the course of the investigation?

What kind of devices to obtain evidence are available for plaintiffs? Is, for example, discovery possible in your country?

A request for access to information submitted to government authorities may be made under the Freedom of Information Law, 5758-1998. Section 9 of the Freedom of Information Law, however, sets out the circumstances in which the government authority may not disclose the information provided to it, including where: the information constitutes commercial or professional secrets or has an economic value, which would be seriously damaged by such disclosure; the information is commercial or business information relating to the business of a person, the disclosure of which information would significantly damage the business, commercial or economic interests of such person; the information was provided to the authority on condition of confidentiality; disclosure of the information would jeopardise future receipt of information; or disclosure of the information would result in the disclosure of the existence or identity of a privileged source. Note, however, that Section 11 of the Freedom of Information Law provides that, where the concerns addressed in Section 9 may be alleviated by omitting or altering the details contained in the information or providing the information subject to conditions, then, unless it proves too burdensome on the authority concerned, these steps should be taken, and the remaining information, subject to the necessary amendments, must be provided to the person requesting access.

In addition, a plaintiff may apply for a disclosure and inspection order. It should be noted however, that the right for disclosure is more limited in the case of a petition for a class action and be subject to stricter conditions compare to individual claims / the main hearing of the class action.

4.4 Are there rules on limitation periods allowing potential claimants to wait with class actions until the public authority takes its decision as regards the infringement?

No.

4.5 Does a decision of the national competition authority or national court create a rebuttable presumption of proof? For EU jurisdictions, how does the judgment of the Court of Justice EU in *Masterfoods* (20 September 2001, C-344/98) play a role in your country with respect to actions based on cartel damages?

A special evidentiary significance is attributed in private actions to certain public measures, *inter alia*:

1. The findings and conclusions of a final verdict of the court, convicting the defendant in the criminal proceeding, serve as prima facie evidence in a civil proceeding to which the defendant is a party (Section 42A of the Evidence Act);

2. A determination made by the Director General of the Antitrust Authority pursuant to Section 43 of the Antitrust Law (e.g. regarding the existence of an illegal restrictive arrangement or the abuse of dominant position) shall constitute prima facie evidence in any legal proceedings (Section 43(e) of the Antitrust Law).

5. Funding of the class actions / collective redress actions, attorney's fees

5.1 In your jurisdiction, is it possible to have class actions financed by third parties who are not parties to the proceedings?

The Class Action Law is silent about such possibility and to the best of our knowledge, there is no ruling by the courts regarding this issue. In practice, there is substantial criticism against lawyers funding class action claims (which is based on the lawyers' ethical code).

5.2 Is the claimant required to declare to the court, notably at the outset of the proceedings, the origin of the funds that it is going to use to support the legal action?

No.

5.3 Can the court stay the proceedings for any reason relating to the funding of the action (for instance: conflict of interest between the financing third party and the claimant and/or its members; the third party has insufficient resources in order to meet its financial commitments to the claimant party; the claimant party has insufficient resources to meet any adverse costs should the collective procedure fail; the fund provider is a competitor of the defendant)?

Theoretically, the court may consider such consideration in the framework of the requirement of section 8(a)(4), that is to say the requirement from the applicant to conduct the class action proceedings in good faith. To the best of our knowledge, in practice the courts do not tend to stay the proceedings for any reason relating to the funding of the action.

5.4 Do public funds providing financial support for potential claimants in collective redress/ class actions exist in your jurisdiction?

Pursuant to Section 27 of the Class action Law a fund was established in order to assist representative plaintiffs to finance the submission and hearing of

petitions for the approval of class actions and class actions that have public or social importance.

5.5 Are contingency or success fees for legal services that cover not only representation, but also preparatory action, gathering evidence and general case management allowed in your jurisdiction?

Section 23 of the class action law determines that the court may determine the representative attorney's legal fees for conducting the class action, including the petition for approval; the representative attorney shall not accept legal fees in excess of the amount determined by the Court as aforesaid.

When determining the representative attorney's legal fees, the court shall, *inter alia*, take the following considerations into account:

- the benefit the members of the group yield by the class action;
- the complexity of the proceeding, the hassle taken by the representative attorney and the risk he assumed by bringing and conducting the class action, as well as the expenses he incurred for that purpose;
- the degree of public importance of the class action;
- the manner in which the representative attorney conducted the proceeding;
- the gap between the relief sought in the petition for approval and the relief adjudged by the Court in the class action.

5.6 Does the losing party of a class action / collective redress action have to reimburse necessary legal costs borne by the winning party (“loser pays principle”), and in which proportion?

The court may oblige the losing party of a class action with legal costs borne by the winning party in an amount according to its judgment.

5.7 More generally, are there any rules and/or safeguards aimed at avoiding incentives to abuse the collective redress systems?

There are several rules and safeguards aiming at avoiding incentives to abuse the collective redress systems, *inter alia*: the requirement to conduct the class action in good faith, the obligation to subject a settlement agreement to the approval of the court, the requirement to obtain the court's approval to the withdrawal from the proceedings, the high evidentiary standard determined by courts at the stage of approval of an action as a class action (for example, the requirement to submit an economic opinion in the primary phase of approving a class action which is based on the antitrust laws), the determination of the legal fees of the attorney by the court, etc.

5.8 Are the parties to an action able to insure against the cost risks?

The defendant may insure itself by a regular insurance policy that covers regular lawsuits. As for the applicant, to the best of our knowledge such practice does not exist in Israel.

5.9 Is a defendant able to apply for an order for security of costs? If so, what are the difficulties to obtain such an order?

Section 2(f) of the Class Actions Regulations 5370-2010 determines that the court shall not condition the submission of an application for the approval of an action as a class action in the deposition of a security by the applicant in order to secure the defendant's costs, but in special circumstances.

5.10 Are there (other) ethical or Bar rules in your country relevant with respect to class actions?

In the Israeli Bar association's ethical rules there are several general rules that may be relevant to class actions, for instance, the prohibition on a lawyer to fund a lawsuit. However, a criticism is raised against the applicability and suitability of these rules to class action cases.

6. Cross-border cases

6.1 In your jurisdiction, are there specific international private law rules (conflict of law and of jurisdiction rules) applicable to class actions / collective redress actions, or do the general international private law rules apply to such actions?

The general international private law rules apply to such actions.

6.2 Are there rules prohibiting a single collective action to take place in a single forum?

6.3 Can a representative entity designated by a foreign country have legal standing to bring representative actions in your jurisdiction?

There is no rule prohibiting the submission of a class action by a foreign person.

6.4 What are the rules where there are several actions regarding the same facts and practices brought in different jurisdictions? Is it for example possible to bring an action against a company and/or individual domiciled outside of the jurisdiction (e.g., against a parent company domiciled outside of the jurisdiction which has a subsidiary within the jurisdiction)?

Yes, it is possible to bring an action against a company and/or individual domiciled outside of the jurisdiction.

In such case, the applicant has to file an application for permission to serve outside the jurisdiction, pursuant to regulation 500 of the Civil Procedure Regulations ("CPR"). The applicant must satisfy, cumulatively, three hurdles in order to obtain such permission:

- (a) He must prove that he possesses a proper cause of action, i.e. he must present "prima facie evidence of the cause for the action";
- (b) He must comply with the conditions of one of the alternatives of Regulation 500 of the CPR (e.g the action is based on an act or omission perpetrated within the boundaries of the State; or the person outside the territory of the State is a required litigant, or appropriate litigant, in an action properly submitted against another person, on whom ex-territorial service was performed).
- (c) He must submit an affidavit supporting his Application.

7. Alternative dispute resolution

7.1 In your jurisdiction, is there any specific mechanism of collective alternative dispute resolution allowing the settlement of class actions / collective redress actions? If so, are the parties required to engage in alternative dispute resolution prior to trial and are the implications for refusing?

A settlement of a class action can be conducted only according to Sections 18 and 19 of the Law which determine that a settlement agreement will be approved by the court following its examination.

7.2 Are the parties encouraged to settle the dispute out of court in any way, and is it a usual practice in your jurisdiction?

Not in class action proceedings.

7.3 Are limitation periods applicable to the claims suspended during the period when the parties try and negotiate a settlement through collective alternative dispute resolution mechanisms or any other means?

The limitation period is suspended from the moment the class action is filed.

7.4 Can a seller of a good or any contracting party insulate himself/herself/itself from a class action by including, in the terms of use or in a purchase agreement, a mandatory arbitration clause, thus prohibiting the consumer from bringing a class action in court?

There is no clear answer to this question. To the best of our knowledge, there is no ruling regarding this issue. Nevertheless, we assume that any clause restricting a claimant from suing its damages will be void (for example, such clause may amount to forbidden depriving condition under the Uniform Contracts Law). More specifically, section 11 of the Class Action Law determines that opting-out is only possible after the submission of a class action, not before.

8. Enforcement of the court decision

8.1 Are there any provisions regulating the way the victims of the practice are informed about decision rendered in a class action / collective redress action concerning them? If there are such provisions, who is in charge of such information (the court/ an independent entity/ the claimant/the defendant)?

See question 3.6.

The Court may order some or all of the parties to be responsible for publication of a notice and to be responsible for all or part of the costs of publication, as it deems efficient and fair under the circumstances.

8.2 Are there any provision regulating the way the court order is enforced and the possible compensation paid by the defendant? If there are such provisions, who is in charge of the enforcement, notably of the payment of the damages (a public authority/ an independent entity/ the claimant/the defendant)?

According to section 20(f) of the Law, the court may issue orders concerning the supervision over the implementation of its judgment.

8.3 In relation to injunctive orders, are there rules ensuring their effective compliance by the losing defendant (for instance: payment of a fixed amount for each day's delay or any other amount provided)?

The regular rules for compliance with injunctive orders apply in class actions as well (e.g Contempt of Court, Execution etc.)