

1. Record Nr.	UNINA9911022156703321
Autore	Maglica Ander
Titolo	Collective Dimensions of Access to Justice : A Constitutional Study on Italian Class Actions in the European Multilevel System // by Ander Maglica
Pubbl/distr/stampa	Cham : , : Springer Nature Switzerland : , : Imprint : Springer, , 2025
ISBN	9783031945229 9783031945212
Edizione	[1st ed. 2025.]
Descrizione fisica	1 online resource (453 pages)
Collana	European Union and its Neighbours in a Globalized World, , 2524-8936 ; ; 23
Disciplina	341.2422
Soggetti	Law - Europe Civil rights European communities European Law European Fundamental Rights and Freedoms
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Nota di contenuto	Premise -- Part 1: Contextual Foundations. Winds of Change -- The Effects of Globalisation and New Technologies on the Social Fabric -- A Multilevel Constitutional Context -- Constitutional Foundations of (Collective) Access to Justice in Italy and Concepts -- Part 2: Collective Actions. Route of Change -- Class Actions: Origins, Us Development and Current EU Context -- The 2019 Italian Class Action Reform in an Integrating Constitutional Perspective -- Part 3: Collective Enforcement. Exercises of Change -- Case Study No. 1: Environmental 'Sacrifice-Zone' and Harmful Medical Devices. The Ilva And Philips Respironics Cases -- Case Study No. 2: Food-Delivery Riders and Fair Working Conditions. The Deliveroo and Uber Eats Cases -- Case Study No. 3: Systemic Inhuman and Degrading Treatment of Prisoners and Migrants. Room for Future (Class) Actions? -- Case Study No. 4: Arbitration Clauses, Class Waivers and Foreign Defendants. The Binance Case -- Part 4: Conclusive Assessment -- Final Constitutional Assessment and Forward Look.

The current societal transformations, brought by globalization and technological innovation, have disrupted the global and multilevel constitutional landscape, now fragmented in standardized and massified relationships in which inequalities are increasingly amplified. Against such a backdrop, the democratic mechanisms of representation, on the one hand, and the traditional civil law dualistic paths of litigation, on the other hand, appear ineffective in enforcing rights, especially fundamental ones. The present research, theoretical and empirical, aims to evaluate the role of Italian class actions (also referred to, in the European context, as collective or representative actions) as a means of overcoming such challenges and ensuring effective access to justice. Adopting an innovative constitutional-law standpoint, it stems from the recent EU Directive 2020/1828 on representative actions for the protection of the collective interests of consumers, as well as the related national reforms, some of which – like the Italian one – are innovatively trans-substantive. From this, the book analyses, in a broader comparative lens, the constitutional foundations of collective enforcement (as opposed to individual litigation), the specific use of collective proceedings to enforce fundamental rights (rather than mere consumer ones – hence, the originality in the current scholarship context) and the potential drawbacks in light of possible abuse and fair trial guarantees. The topicality of the study is given by the currently developing case law on the matter in all EU Member States, especially in Italy, as well as by the numerous discussions on how to best implement such a tool in a strategic litigation perspective, while upholding essential due process guarantees. The analysis is interdisciplinary, as initially it draws from sociological and socio-legal insights, subsequently theoretically developed and assessed through the aid of case studies. It is also comparative, towards other jurisdictions' implementation of class actions and towards other more traditional European paths of fundamental rights' enforcement (e.g. constitutional review and ECtHR applications). The foundational lens, nonetheless, is a constitutional and legal one, since, on the one hand, it does so against the backdrop of the principles of fair trial and effective protection, enshrined under Articles 2, 24 and 111 It. Const., 6 and 13 ECHR, 47 CFREU, and 2 and 19 TEU, as developed by national and supranational Apex courts.
