

New Class Actions Act bringing some novelties

At the end of April 2018 new Class Actions Act will enter into force, systematically regulating class actions, that are already known in Slovenian legal system, however never fully brought to life. Class Actions Act regulates areas in which class action can be filed in cases when rights are violated or have a negative impact on a large number of entities. Provisions governing procedural aspects in greater detail, introduce into legal order of the Republic of Slovenia some novelties that have not been known before.

At the end of April, more specifically 21 April 2018, the Class Actions Act (ZKoliT, Ur. l. RS, No. 55/2017), adopted 26 September 2017, will enter into force. The reasons for the adoption of the law stem mainly from the recommendations and orientations of the European Union and the requirements of its secondary legislation.

Although class actions have already been regulated in Slovenian legal system, namely in consumer disputes, they have not been fully implemented into practice for various reasons. Additional systematic approach was needed, and according to the legislator it is now covered with solutions governed by Class Actions Act.

These solutions are not intended solely to facilitate collective protection of rights of individuals suffering damage in court proceedings, but also to create a deterrent effect on the behaviour of potential infringers. They are, as a rule, economically or otherwise significantly stronger than individual victims, who will now have the opportunity to act together.

Class Actions Act anticipates two types of lawsuits: collective injunctions and collective compensatory actions. While the former was already part of the Slovenian legal system - it was regulated with the provisions of the Consumer Protection Act - the latter represents a complete novelty. Its aim is to obtain compensations for the damage suffered, for which, within the current individual system of judicial protection, the beneficiaries rarely decided to lodge actions. Class actions should be in comparison with individual lawsuits, lesser burden for individuals.

In accordance with the newly adopted law, it will be possible to lodge class actions for violations of following legal areas:

- consumer protection,
- competition – concerning infringement of provisions prohibiting restrictive practices,
- financial instruments - regarding violations of the rules of trading on regulated markets and in relation to prohibited practices of market abuse,
- workers' protection,
- liability for damages caused by environmental disasters.

The law introduces a system of representative action, which in practice means that class actions could be lodged by private law legal entities , engaged in a non-profit-making activity related to the content of a class action and also by senior state attorneys. Under certain conditions, entities from other EU Member States will also be able to file class actions.

Since the purpose of Class Actions Act is not only to facilitate judicial protection for individuals and to enable them to obtain compensations, but also to prevent unfair litigation, it governs several procedural guarantees intended mainly for protection of interests of business entities in these relationships. These are:

- preliminary process of the examination and approval of a compensatory collective action,
- prohibition of punitive damages,
- in terms of reimbursement of procedural costs principle of success is used (the party that loses bears the costs of litigation),
- prohibition on financing class actions by fund provider that is a competitor of the defendant.

Potential plaintiffs will be informed about the possibility of joining a class action through a register kept by High Court of Republic of Slovenia, publicly available on the websites of judiciary.



As fiduciaries of awarded collective damages are exclusively predicted notaries public, and the parties will be prior to appointment of the notary public, provided with an option to nominate chosen notary public.

Access to the full text of Class Actions Act in Slovene language is available on the link below:

<https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-2517?sop=2017-01-2517>

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