

CLASS ACTIONS – WHO WANTS TO GO FIRST?

Recently, a **Class Action Act** was adopted which will take effect as of 21 April 2018. The Act aims at providing for an efficient joint pursuit of rights by injured parties that, until now, were discouraged by lengthy and expensive court proceedings.

The applicability of the Act is limited to the most typical cases where damage is incurred by a number of **consumers** due to a violation of consumer protection regulations (e.g. product liability), anti-competitive restrictive practices and abuse of a dominant position or a violation of rules of trading on regulated markets and market abuse, **employees** (e.g. unpaid overtime), or other individuals due to **environmental accidents**.

Moreover, the Act provides for restrictions regarding the potential claimants. A class action may only be brought by an **eligible representative**, i.e. a private legal entity pursuing non-profit activity related to the violated rights (e.g. consumer organisations, trade unions) or by a **senior state attorney**.

Pursuant to the Act, the injured individuals are not parties to the proceedings, which means that they are not entitled to personally bring a class action; however, they are (under certain circumstances) offered the opportunity to inform the court whether they want to be included or excluded as members of the group and present their views before the court in the proceedings.

Furthermore, the Act provides for the priority of the class action proceedings over the individual ones. After a class action is brought, the proceedings initiated by individuals in the same claim for damage involving a number of injured parties are suspended. Such individual proceedings continue after it becomes evident that the decision in the class action proceedings will not be effective for the individual (e.g. because the individual failed to enter into the class action proceedings in due time).

In the coming months, we expect to see several groups of injured parties organising themselves for the purpose of pursuing their rights by either establishing new legal entities or contacting the existing consumer organisations and trade unions. At the same time, it can be anticipated that individuals who sustained damages in cases involving a number of injured parties and intended to bring actions personally will postpone the initiation for the time being and join the class action at a later point.

Please do not hesitate to contact us for any questions.

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