



Class Action

The law on class action is one of this year's most important legislative changes. It is unquestionably a step towards improving the efficiency of court proceedings and facilitating access to courts for people who cannot afford to start a lawsuit by themselves. Whether this will trigger a revolution in the judicial system and unleash a flood of class action suits remains to be seen. Much depends on the legal culture of plaintiffs (mostly consumers) and court practice.



■ Class actions are not possible in all legal cases. First, class actions can be started in cases involving consumers, tortious acts (but excluding the protection of personal rights) and liability for hazardous products. But this list does not include employee issues, for example.

Second, a group on behalf of which a representative conducts a class action has to comprise at least 10 people. Third, the claims must be of the same type and the circumstances have to be the same. Fourth, the most important thing to remember, the “price” for filing a claim as part of a class action (and all the advantages this involves) is that all the group's members agree on the amount being claimed (agreement may also take place within subgroups). One obstacle to

class actions could be the deposit that the court can ask the plaintiff (in effect the whole group) to pay as security for the costs of the proceedings. This can be up to 20 percent of the value of the damages claimed.

To simplify, a class action means that people who have the same claim towards one entity can set up a group and appoint a representative (one of the group or the consumer ombudsman) who will file a single lawsuit on behalf of all the group's members. The group's representative (who has to be represented by a lawyer or legal adviser) handles the proceedings under their own name but on behalf of all the group members, which means that the members are not party to the class action and do not take an active part in the proceedings. The rule is that once a suit is filed, it is announced in the press to enable all those interested to join the case (group).

Sectors that will be at the greatest risk of class actions are probably those where there is a risk of damage caused by hazardous products (the tobacco and pharmaceutical industries) or where relations with consumers are standardized on a mass scale (banks, insurance companies, developers, tourism). At the same time, due to the broad definition of tortious acts, class actions may be brought against the Treasury and various public entities. It is no coincidence that the first class actions have been filed by people who suffered in the recent floods in Poland and by victims of medical malpractice.

Paweł Lewandowski
legal adviser, partner, litigation team
Domański Zakrzewski Palinka law firm