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Class Actions Bulletin

July 2010

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Russia: The advent of Class Actions in Russia

As of 21 October 2009, certain amendments to the Russian Commercial Procedural Code which allow for class actions were brought into force. Following these amendments, class actions can now be filed in relation to any commercial dispute, meaning a dispute which ordinarily falls within the competence of the commercial court (i.e. disputes which relate to business activities and are between legal entities, or between legal entities and individual entrepreneurs). In addition, the following criteria must also be met:

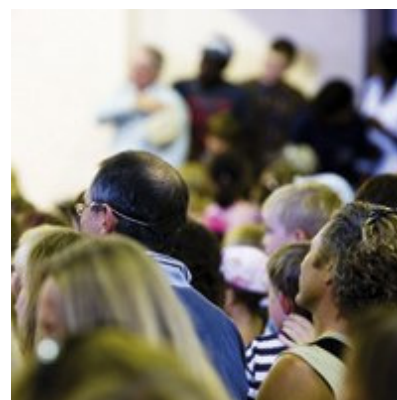
- (a) for an action to be considered as a class action, five or more parties must have joined the lawsuit by the date of filing. Further parties may join in the proceedings during a period determined by the judge hearing the case; and
- (b) for the five or more parties to qualify as a class, the claim must arise out of a legal relationship in which each of the plaintiffs participates. The concept of the same legal relationship is a new one to Russian law and may, therefore, give rise to different interpretations.

Once an action is classified as a class action, the person who initiated the proceedings is entitled to represent the interests of all members of the class. Other parties in the same legal relationship should then be notified about the initiation of the proceedings by means of a notice published in a public source. Such participants may join in the proceedings within the period set out in the public notice. Once joined, the participants do not have the right, under the new provisions, to withdraw from the claim and file a separate individual claim. If the participant chooses not to join in the proceedings he is also barred from filing a separate claim on the same subject matter. The findings made by the court in connection with the class action are treated as *res judicata* for all participants in the same legal relationship regardless of whether or not they were joined to the proceedings. Therefore, the new provisions are aimed at the protection of the class, not particular individuals.

Although the provisions on class actions have now been in effect for several months, there is very little publicly available case law in relation to their application. One of the few examples is a class action for the protection of cooperative society members who filed for a declaration of invalidity of an assignment agreement owing to the expiry of a limitation period. This was dismissed by the Commercial court of the Novosibirsk region in Case No. A45-29962/2009 dated 21 May 2010.

Comment

The introduction of the class action concept is a progressive step for Russian



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law and for the judiciary, potentially allowing for the efficient resolution of certain categories of dispute involving large classes of individuals. However, as the existing amendments have not yet been properly tested, it is too early to say whether they will become widely used.

Furthermore, despite the broad language used in relation to actions that can now be filed under the new provisions, consumer disputes, for example, do not fall within the competence of the commercial courts. Consumer disputes, including product liability claims brought by consumers, are heard by the courts of general jurisdiction, which have their own separate procedural code (the Civil Procedural Code). Consequently, in order for consumer class actions to be allowed in Russia, further amendments will be required to the Civil Procedural Code.

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