

Poland: New Class Action Law

On 17 December 2009 Poland adopted the “Act on Class Actions” (*Ustawa o dochodzeniu roszczeń w postępowaniu grupowym*), published in Dziennik Ustaw (Journal of Laws) of 2010, no 7; item. 44 p. 1

The Act was signed by the President on 4th January 2010 and was published on 18th January. It comes into effect six months from the publication date on July 18th 2010. Members of EJP can find a full translation of the Act on the members’ section of this website.

The law adopted following a long period of consultations and negotiations. EJP played a key role in the discussions, making sure that the new procedure is a balanced mechanism and is not open to abuses. After a number of amendments to the original draft, the procedure is a reasonable, albeit not without its risks. The key features of the new procedure are:

- (i) it is generic;
- (ii) it is an opt-in procedure, so that all litigants have to be individually identified;
- (iii) the courts which are able to handle group litigation are regional courts (not local courts), and only professional judges are allowed to sit – three of them in fact;
- (iv) the procedure is subject to a very significant level of judicial control in all its stages, especially in the stages of certification of litigation and certification of the group;
- (v) representation by a lawyer is mandatory (which is not normally the case in Poland);
- (vi) the lawyer’s remuneration can be agreed to be a part of the amount awarded to the group, however not more than 20% of it. NOTE that the 20% limitation was inserted quite late in the drafting process;
- (vii) legal aid is not available;
- (viii) the loser pays rule remains in place (again, this was a hotly debated issue).