



Policy Watch No 6/2009

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Highlights:

Class action originated in the United States and is a form of lawsuit where a large group of people collectively bring a claim to court.

Introduction of the class action institution in Europe has been, for a long time, quite controversial and hotly discussed.

A number of European countries as well as the EU aim to adopt this new mechanism.

AMCHAM ADVOCATES FOR CHANGES IN CLASS ACTION DRAFT LEGISLATION

Draft legislation on pursuing claims in group proceedings (Class Action Act) has already undergone first reading procedure in the Polish Parliament. Currently it is subject to discussion within the Parliamentary Justice and Human Rights Committee. In this respect AmCham provided the following recommendations:

- A. **Increasing the number of persons in the group.** The Suggested quota in the Draft of 10 people, seems to be insufficient, e.g. American law gives the right to file a class action suit to a group of 40 or more persons. Thus, we have suggested increasing the number of petitioners to 40 – 50 persons.
- B. **A clear catalogue of cases which can be classified as class action.** According to the Draft, any case can be classified as class action. To avoid absurd cases, this needs to be changed while still at the preliminary stage of the legislative process.
- C. **More precise definition of the group is needed.** Definition of the “group” should be precise and clear so that the Court deciding on the group to be properly composed does not have to go into details. Furthermore, the definition of the “group” should be constructed in such a way as to eliminate the cases which can be decided using alternative Court proceedings.
- D. **An evaluative procedure is needed, in which the Court can decide if the case can be classified as a class action.** Polish class action legislation should give the right to the defendant to take part in the evaluative procedure, as well as to appeal a court decision classifying the case as a class action.

The Polish version of this position can be downloaded at:

http://www.amcham.pl/file/pdf/class_action.pdf

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