

CLASS ACTION IN CIVIL AND ADMINISTRATIVE PROCEEDINGS. LITHUANIA'S EXPERIENCE

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Introduction and evolution of class action in Lithuania

- In 2011 the Government of the Republic of Lithuania approved the Concept of Class Action, prepared by the Ministry of Justice.
- Since the claims of a group of persons may arise from both civil and administrative legal relationships, draft legislation regarding class action in civil and administrative proceedings were prepared and enshrined in the Code of Civil Proceedings and Law on Administrative Proceedings.
- In 2020 provision of the Code of Civil Proceedings regarding class action were amended in order to make this public interest defence measure more effective.

NOTE! Specific rules (including class action rules) concerning environmental disputes are not enshrined in the Code of Civil Proceedings and Law on Administrative Proceedings. General provision apply.



Statistics

During the period of 2015-2021:

- Civil Proceedings - 6 class action cases - all of them closed at the initial stage or still ongoing
- Administrative proceedings - 4 class action cases (1 of them - environmental) - all of them closed at the initial stage



- **The Supreme Court of Lithuania** ruled (14-02-2019 ruling, case No. 3K-3-40-313/2019):
- The *travaux préparatoires* of the provisions of the Code of Civil proceedings (setting the procedural provisions regarding the class action), which can be considered as sources revealing the will and intentions of the legislator, note that the introduction of the class action institute into the legal order of Lithuania aims, among other things, to ensure the right to judicial protection for persons who do not initiate legal proceedings for financial reasons, lack of experience, and time costs. In addition to this, the aim of the class action institute is to shorten the civil proceedings, to ensure uniform case law in the same or similar cases, and to contribute to the confidence of individuals in the judicial system, legal certainty, protection of legitimate expectations. Also to reduce the costs of civil proceedings for plaintiffs filing a class action, defendants, and the State.



Legal standing. SUBSTANTIVE

| Civil proceedings | Administrative proceedings |
|--|---|
| <p>- the <u>action is based on identical or similar facts</u> and seeks to protect, by the <u>same means of redress</u>, the <u>identical or similar substantive rights or interests protected by law</u> of the natural or legal persons who have brought the action;</p> | |
| <p>- Condition removed in 2020</p> | <p>- a group complaint is a <u>more targeted, effective and appropriate way</u> of resolving a specific dispute than individual complaints.</p> |



Legal standing. PROCEDURAL

| | Civil proceedings | Administrative proceedings |
|----------------------------|--|--|
| Number of claimants | Action should be brought by at least of 20 natural or legal persons; Each of them should make a written statement expressing intention to be a member of the group and to bring an action in court. | |
| Pre-litigation | <u>Required</u> The group representative must notify the defendant by registered letter of formal notice of the group's intention to bring a class action before the court OR the group uses other pre-litigation procedures required by law | <u>Required if applicable</u> At least one member of the group must have used pre-litigation procedure, where this procedure is required by law |
| Representation | Requirement to have representative, requirement to have attorney (exceptions in civil proceedings) | |



Class action related aspects (1)

| | Civil proceedings | Administrative proceedings |
|---------------------------------|--|----------------------------|
| Scope of the review | <ul style="list-style-type: none"> - The court reviews substantive and procedural legality - The court acts actively, may: invite other members of the group to the hearing; offer to change attorney. | |
| Costs: stamp duty | <ul style="list-style-type: none"> - 500 Eur (for non-pecuniary claim) - For pecuniary claims general rules apply - Claims arising from consumers legal relations are exempted from this duty | - 140 Eur |
| Costs: other legal costs | General rules apply. The main of them – losing party bears all costs. | |



Class action related aspects (2)

| | Civil proceedings | Administrative proceedings |
|--|--|--|
| Assistance mechanisms | No specific mechanisms | |
| Requirement to have professional legal representation | <p>Representation by attorney is required</p> <p>Exceptions*:</p> <ol style="list-style-type: none"> 1. the representative of the group is a member of the group with a university degree in law; 2. the group is represented by an employee (with a university degree in law) of the association or other public legal entity. <p><i>*Introduced in 2020.</i></p> | Representation by attorney is required |



Class action related aspects (3)

| | Civil proceedings | Administrative proceedings |
|--|---|----------------------------|
| Timeliness, remedies | General rules apply | |
| Protection against harassment and other form of retaliation | No specific provisions. General rules apply – institute of Abuse of Procedural Rights | |



Clear-cutting and selective logging in Natura 2000 Case

- Claimants: class action filed by more than 200 natural persons and 4 legal persons
- Defendants: the State, represented by the Government, the Ministry of Environment (MoE), the State Forestry Enterprise
- Subject of the complaint: requirement to prohibit actions – clear-cutting and selective logging in the state forests Natura 2000 areas.



Clear-cutting and selective logging in Natura 2000 Case.

PROCEDURAL STEPS (1)

- Initial class action was brought before a court of general jurisdiction in 03/12/2018
- The special panel of judges ruled that the dispute fell within the jurisdiction of the administrative court (13/02/2019)
- Administrative court set the term to eliminate the shortcomings of the complaint (19/02/2019); one of them - indicate specific possibly illegal actions (acts) of the public administration entity (ies), etc., submit the contested acts
- Claimants filed a class action (06/03/2019), required:
 - 1) to annul certain decisions of the MoE;
 - 2) to order the State Forestry Enterprise to contact the directorates in order to evaluate the significance of the impact of clear-cutting and selective logging in state forests on Natura 2000 areas;
 - 3) To order the Government, the MoE, and the State Forestry Enterprise to stop clear-cutting and selective logging in the state forests Natura 2000 areas, until conclusions are reached on the significance of these activities for the Natura 2000 areas.



Clear-cutting and selective logging in Natura 2000 Case.

PROCEDURAL STEPS (2)

- The court of first instance declared the class action to be inadmissible (07/03/2019);
- The court of appeal upheld partially the appeal and returned the question of admissibility to the court of first instance (26/06/2019);
- The court of first instance set the term to eliminate the shortcomings of the complaint: clearly state the grounds and subject matter of the case, contested decisions, and defendants (11/07/2019); ruled that the applicants' complaint shall be deemed not to have been filed (26/07/2019);
- The court of appeal upheld partially the appeal and returned the question of admissibility to the court of first instance (16/10/2019);
- The court of first instance ruled that the term to file the class action was missed and there are no objective grounds to renew it (20/11/2019). **The court refused to accept this class action.**
- **The court of appeal left the ruling of the court of first instance unchanged (29/01/2020).**



Thank you for your attention!

