

Consumer collective redress in the group proceedings in the Polish legal system in the light of the European Union law standards – achievements and challenges

1. Statement of the object of the project

Some people know about the possibility to submit collective claims from the attractive American legal movies. One of the most famous films – “Erin Brockovich” was inspired by a story of a woman (portrayed by Julia Roberts) who fought against the energy corporation polluting environment and she motivated the infringed families to bring class action suit against the company. As a result, the judge ordered them a compensation amounting to 333 million dollars. In spite of the fact that the use of collective redress mechanisms in Europe is not so spectacular as it is in USA, it is worth noting that such mechanisms do exist both at the EU level and in the national legal systems of the Member States. The first and most general objective of the project is to verify the hypothesis that properly implemented European mechanism of collective redress may be an effective tool which helps to ensure high level of consumer protection. The concept of collective redress broadens the traditional understanding of civil proceedings, in that individual claims are to make to make it possible to obtain redress collectively. For reasons of procedural economy and efficiency of enforcement it allows for many similar legal claims to be bundled into a single court action. Collective redress facilitates access to justice in particular cases, where the individual damage is so low that potential claimants would not think it worth pursuing an individual claim. It also strengthens the negotiating power of potential claimants and contributes to the efficient administration of justice by avoiding proceedings that concern claims resulting from the same infringement of law.

2. Description of the research to be carried out

In the study we are investigating, whether the European Union is legitimised to create legislative framework for collective redress and whether the creation of such system is justified. The project aims at answering the question about the desired model of the EU collective redress system. In order to meet the aim we construct an independent model of the collective redress in the EU which is confronted with the recommendations of the European Commission. The research objective set at further stages of the project is to confront the mechanisms of the collective redress functioning in the individual Member States. The evaluation of the Polish group proceedings will be conducted against this background and this will be conducted with special focus on the practice of the Polish courts adjudicating in this domain. To this end, at the last stage of the research we carry out the analysis of the empirical material that covers the data related to the collective complaints in the civil cases lodged at the district courts in Poland in the period 2010-2017. We shall examine which district courts most of the civil cases were lodged to. We shall investigate those suits which initiated the group proceedings and analyse the reasons for which some of them were rejected, denied or returned to the consumers. The fact remains that only on the basis of such empirical material the practical disfunctions of the group proceedings in Poland can be revealed and specific recommendations solving the identified problems can be proposed.

3. Reasons for choosing the research topic

Taking into the consideration the current needs of consumers in the EU, the research topic is fully justified. According to the survey carried out by the European Commission, more than 3/4 of the respondents in 27 Member States claimed that they would be more willing to claim their rights at the court provided they could do it together with other consumers. Hence, the research project seems to be fully motivated, valuable and necessary to prepare appropriate solutions which enables effective consumer redress.

The proposal to discuss the said problem stems from the academic interest of the applicant in the field of both solution of consumer disputes and EU law in general. It needs to be foregrounded that the academic research conducted so far in the field of collective consumer redress focus on the civil procedure aspects and are usually not related to the framework of the legislator activity of the European Union. Undoubtedly, there is a need to bring these two research perspectives together. This shows why the proposed problem is an immensely complex issue referring to numerous theoretical and practical problems, which makes it a key issue for the development of the internal market.