ICELAND

Second Study Commission

Civil Law and Procedure

2016 Questionnaire

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CLASS ACTIONS

1. Do you have class proceedings in your jurisdiction? If so, what is the nature of those class proceedings?

In the Civil Procedure Act there is a provision, since 2010, on the formation of “litigation associations”. These associations may be formed to take action on behalf of their members and will therefore make an aggregated pecuniary claim (i.e. the compiled claims of the members) or non-pecuniary claims which in both cases have to be rooted in same events, situation or act. Secondly, any association is entitled to file a case for the recognition of specific rights of their members (or the absolution from particular obligations) insofar such claims are compatible with the purposes of these association (e.g. trade unions with regard to rights of their members). However, there are no provisions in Icelandic Law on lawsuits on behalf of a “class”, that is a group whose members are not individually identified and preemptively listed in the motion. Therefore, a “class action” will typically be formulated as a classic court case, viz. one case or a handful of cases are selected and these cases are intended to establish a precedent for the “class” and provide closure (see further answer to question 5)

2. What are the advantages or disadvantages to class action proceedings in your jurisdiction?

The provision on “litigation associations” is mainly intended to reduce the costs of the proceedings by allowing several plaintiffs to join forces. However, given its nature, this provision hardly achieves other aims of class-action provisions, e.g. the one of strengthening the enforcement of rights and creating deterrence in
certain fields. The “pseudo class action” described under question 5 can often prove haphazard, imprecise and insufficient to resolve the legal issues in question. Thus, several parties may be attacking the same goal at the same time with different claims etc. In some cases it may difficult to get a legal question addressed by the courts (e.g. in cases concerning the environment).

3. **Is there an access to justice component to class action proceedings in your jurisdiction?**

   No.

4. **How is case management achieved in class proceedings in your jurisdiction?**

   In the case of a litigation associations, the associations will be the formal plaintiff but the application must nevertheless list the members of the society preemptively. The association will be governed by its own statute which nevertheless has to conform with certain regulations. The procedure that follows is standard.

5. **If you do not have class action proceedings, how are the cases involving a large quantity of victims or involving a group of individuals with a collective interest dealt with?**

   A “pseudo class action” may take the form of one case (or perhaps a handful of cases being considered to preempt all legal questions) being selected by a formal or an informal group of potential plaintiffs who will share the costs and responsibility for the proceedings. It is also common that trade unions, consumer associations, and other associations and interest groups assume this role.