Second Study Commission

Civil Law and Procedure

2016 Questionnaire

59th Annual Meeting of IAJ – Mexico City (Mexico)

CLASS ACTIONS

In Barcelona (Spain), we decided that in 2016, our Second Study Commission will focus on class proceedings. We have limited the questionnaire to five questions and we expect to receive short but concise answers.

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

   There are court proceedings for redress for damages prescribed in the Act on Special Measures Concerning Civil Court Proceedings for the Collective Redress for Property Damage Incurred by Consumers as proceedings similar to class action proceedings. This Act will be enforced on October 1, 2016.

   This system establishes two-stage proceedings to achieve collective redress for damage incurred by consumers in consideration of the characteristics of consumer damage that the damage of the same type diffusely and frequently arises.

2. What are the advantages or disadvantages to class action proceedings in your jurisdiction?
The advantages of court proceedings for redress for damage are, (i) the effort and cost for redress for consumer damage decrease and (ii) a dispute may be resolved more quickly and collectively than individual litigations by each consumer.

On the other hand, the disadvantages of this system are not particularly seen at present and it may be pointed out that the subject cases are limited.

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

   Court proceedings for redress for damage are proceedings for bringing an action to the courts and access to justice has been established.

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

   In principle, the court proceedings for redress for damage shall be conducted by the Specified Qualified Consumer Organization certified by the Prime Minister as a party, instead of individual consumers. Therefore, cases are managed by considering such organization as a party.

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?

   An action may be brought for cases in which a large number of victims or a group of individuals associated with collective interests are involved instead of using the court proceedings for redress for damage.
In such cases, if a large number of victims collectively bring an action, the action the parties to which are such victims will be pending before a court and litigation proceedings will be carried out. On the other hand, even if it is a case in which a large number of victims are involved, if only some of such victims bring an action as a plaintiff, other victims are not treated as parties to such action.
Deuxième commission d’étude

Droit civil et procédure civile

Questionnaire 2016

59e Réunion annuelle de l’UIM – Mexico City (Mexico)

LES RECURS COLLECTIFS

À Barcelone (Espagne), nous avons décidé qu’en 2016, notre deuxième commission d’étude se concentrera sur les recours collectifs. Nous avons limité le questionnaire à cinq questions et nous nous attendons à recevoir des réponses courtes, mais concises.

1. Votre droit national admet-il des recours collectifs? Dans l’affirmative, quelle est la nature de ces recours collectifs ?

2. Quels sont les avantages ou les inconvénients de la procédure de recours collectif dans votre juridiction ?

3. Existe-t-il une composante d’accès à la justice relative à la procédure de recours collectifs dans votre juridiction ?

4. Comment les recours collectifs sont-ils gérés dans votre juridiction?

5. Si votre droit national ne permet pas les recours collectifs, comment sont traités les litiges concernant un grand nombre de victimes ou impliquant un groupe de personnes ayant un intérêt collectif ?