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Collective Redress
in CEE & SEE

Czech Republic

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a) Current collective redress regime

- **What forms of collective redress are available in the Czech Republic?**

The Czech Act on Collective Redress No. 179/2024 Coll. (*zákon o hromadném občanském řízení soudním*) (“**Czech Collective Redress Act**”) implements the Representative Actions Directive (EU) 2020/1828. It came into effect on 1 July 2024.

The new legislation enables the collective enforcement of consumers’ and small companies’ claims against traders, which until now has been very limited in the Czech Republic.

As an alternative, the Czech Code of Civil Procedure also permits multiple subjects to participate in proceedings where common rights or obligations are at dispute. In these disputes, the court’s judgment binds all participants appearing on the same side, and the actions of any one participant are binding on all participants. However, certain actions (e.g. modifying or withdrawing an action, recognising a claim, agreeing a settlement) require the consent of all participants.

Finally, the Czech Consumer Protection Act and the Czech Code of Civil Procedure also provide elements for collective protection through an action to protect the collective interest of consumers. This legislation allows consumers (represented by a registered consumer protection organisation) to request that traders refrain from conduct that infringes on consumers’ rights (but does not allow the recovery of damages).

b) Key features of collective redress in the Czech Republic

- **Is collective redress available in all areas of law or in only certain sectors?**

Under Czech law, collective actions can be filed by consumers and small companies to collectively assert their claims in all areas of law.

- **Who is entitled to bring an action (e.g. individuals, groups, qualified entities)?**

Collective actions may only be filed by registered non-profit organisations that have been active in consumers’ rights protection for at least twelve months. These organisations must be independent of any entity that has an economic interest in the filing of a collective action.

In the collective proceedings, the claimant acts in its own name but in the interests of a class of (i) consumers and/or (ii) small companies employing less than ten employees and with an annual turnover or annual balance sheet sum not exceeding CZK 50 million (approx. EUR 2 million). Therefore, small companies can also collectively bring claims against traders.

- **Which mechanism applies – opt-in, opt-out or both?**

Individuals and small companies can opt in to a collective action by submitting an application. The class must have at least ten members.

- **What are the requirements to bring an action? Is there a minimum claims threshold?**

Collective claims arising from consumer-company relationships must share a similar factual and legal basis and must apply to claims arising after 24 November 2020 (the effective date of the Representative Actions Directive (EU) 2020/1828 implemented by the Czech Collective Redress Act).

Consumers can join a class by filing an application with the court within a set period following the registration of the claim or on the basis of prior consent. The Ministry of Justice will publish an application form that consumers can use to easily join a class in proceedings, irrespective of their location. A class must have at least ten members.

- **What remedies are available (e.g. monetary compensation, injunctive measures, redress measures)?**

All types of remedies are available. Collective actions can be used to seek the performance of an obligation (e.g. an obligation to compensate damage, to repair or replace a product, to grant a discount on a purchase price, to refund a purchase price paid, to compensate unjust enrichment, to terminate a contractual obligation, to settle mutual claims with consumers or, conversely, to continue performing an obligation that the trader has ceased to perform or to prohibit certain conduct that is considered unfair) or to determine whether a specific relationship or right exists. As part of these proceedings, the claimant can also seek injunctive relief.

- **In claims for damages, does loss need to be collectively established or is individual proof required?**

Individual proof is required. In their opt-in applications, consumers must include facts and evidence certifying that they meet the criteria for membership of the class (the claims or legitimate interests of the class must have a similar factual and legal basis).

- **Which types of damages are recoverable (e.g. economic loss, damage to property)?**

Collective actions can provide redress for pecuniary loss caused by bodily harm, damage to property, immaterial damage and economic loss. Punitive and exemplary damages are not recognised under Czech law.

- **How are damages quantified? On what basis are damages divided among class members?**

Damages are typically quantified by assessing the specific circumstances of each case, including the extent of the harm suffered by each individual class member.

The collective action must make clear what is being sought by the claimant on behalf of the claimholders. If the claimant seeks monetary payment or the performance of another comparable obligation, the collective action must state the amount to which each claimholder is entitled or at least the method by which that amount can be determined, by no later than the date of the court's decision on the merits.

Where the court orders a defendant to pay monetary compensation, it must quantify the individual claims of each claimholder who has joined the action.

- **What is the settlement structure, if any?**

The participants in a collective action can reach judicial settlement.

If the parties submit a proposal for a judicial settlement to the court, the court will publish it in the register of collective proceedings without undue delay, unless the parties have agreed otherwise in the settlement proposal. The court will then assess whether the proposed settlement serves the interests of the claimholders, whether the claimant represented the claimholders' best interests, and whether the settlement is fair, taking into account factors such as costs, risks and length of proceedings.

The court will not accept a settlement proposal if it is unfair towards the interests of the claimholders.

Any claimholder can submit objections against a settlement proposal within 15 days of its publication in the register. Subsequently, the court will order a hearing for discussion of the settlement proposal and of any objections.

The approved settlement will have the effect of a final judgment.

c) **Collective redress proceedings**

- **How are court proceedings managed? Are there any typical procedures used in the context of collective redress?**

Once the collective action has been filed with the Municipal Court in Prague (which is the only court competent for collective actions), the court will consider its admissibility by determining whether the statutory requirements under Sections 15 and 16 of the Czech Collective Redress Act are met. The first step in collective proceedings is to assess whether the claimant has fulfilled the prerequisites to initiate proceedings. The claimant must be represented in the collective action by an attorney-at-law.

If the collective action has been legally admitted, the court will publish the collective action and its resolution admitting the action, without undue delay, in the register of collective proceedings.

Once the deadline for the defendant's application and statement has expired, the court will promptly publish a plan for the collective proceedings in the register of collective proceedings. The plan may be modified, again by way of publication.

- **Is there a deadline by which claimholders must join proceedings?**

A claimholder can file an application to join a collective action from the start of the proceedings until the application deadline expires. This deadline must be stated on the commencement notice of collective redress proceedings published by the claimant.

- **Are there any time limits on initiating court proceedings?**

Given the absence of specific or separate provisions concerning collective actions, the general statute of limitations under the Czech Civil Code applies. Consequently, the general limitation period is three years.

The limitation period for a claim is suspended once a claimholder opts into a collective action. This takes effect the moment the collective action is filed with the court.

If a claimholder withdraws an application or if the court excludes a claimholder from the list of participating claimholders, or if it discontinues the collective proceedings or rejects the collective action, the claimholder's right will expire no earlier than six months from the date of withdrawal or from the date the court's decision became final.

- **Is pre-trial discovery available?**

The Czech Code of Civil Procedure does not normally provide for a pre-trial discovery process akin to that in common law jurisdictions like the United States.

However, the Czech Collective Redress Act does recognise a new rule on discovery. On the motion of a participant in proceedings who has offered reasonably available evidence in support of their claim and has determined evidence under the control of the opposing party, the court may order the opposing party to provide such evidence under their control.

This discovery obligation is without prejudice to the obligation of confidentiality.

If a party that is required to provide evidence to counter an allegation fails to do so without giving a justifiable reason, the court may deem the allegations against that party as proven.

The court can also impose a fine of up to CZK 5,000,000 (approx. EUR 200,000) on anyone who fails to comply with their obligations under the Czech Collective Redress Act, particularly in terms of failing to publish information about the commencement and conduct of collective proceedings or by failing to submit evidence. In quantifying the fine, the court will take into account the significance of the obligation breached, and the extent and gravity of the breach.

d) Costs and funding of collective actions

- **Is there a rule as to who has to bear the court fees / legal fees? Does the “loser pays” principle apply?**

The “loser pays” principle applies, with the unsuccessful party required to bear the successful party’s costs of the proceedings.

Consequently, the successful party is entitled to recover necessary and appropriate costs, encompassing not only court fees and legal fees, but also purposeful costs relating to receiving applications and keeping the list of participating claimholders, publishing information about collective proceedings, and the presentation of evidence. If a party is only partially successful, the legal costs are divided between the parties on a *pro rata* basis.

Court fees are calculated according to the Czech Court Fees Act, and legal fees are calculated based on the Czech Attorney Fees Decree.

The claimant, if successful – and in addition to being awarded any costs, including legal fees – is entitled to receive a fee for bringing the collective action. The claimant’s fee must be quantified at an amount that appears reasonable, particularly in consideration of the expected complexity and length of the collective proceedings; however, the fee cannot exceed 16% of the damages awarded or CZK 2,500,000 in case of a flat fee.

- **How are the costs of court proceedings shared among class members?**

The costs of collective proceedings are borne by the claimant or a third-party funder. Claimholders can only be required to cover costs they have culpably caused.

- **Is third-party litigation funding permitted in the Czech Republic?**

The Czech Collective Redress Act allows third-party litigation funding.

- **Are there any restrictions on third-party litigation funding?**

The court may require the claimant to provide an overview of funding and its origin. This is aimed at mitigating conflicts of interest and the risk of a collective action being brought by a competitor.

- **Are contingency fees permitted in the Czech Republic?**

Under Czech law, contingency fee arrangements are permitted to a reasonable extent. Fees exceeding 25% will be considered unreasonable.

e) Jurisdictional implications

- **Are there any limitations on cross-border collective actions?**

In cross-border litigation, there are limitations placed on the international jurisdiction of the Czech courts by international and European procedural law (e.g. the Brussels I Regulation (recast)). Legal action is frequently required to be initiated in the country where the damage occurred.

- **Can claims be brought by residents of other jurisdictions?**

In general, the international jurisdiction of the Czech courts is not limited to parties residing in the Czech Republic. However, the limitations of international jurisdiction in cross-border cases necessitate that, in the absence of a jurisdiction agreement between the parties, there must be a connection to the jurisdiction of the Czech courts. Such a connection arises, for example, when the place where the damage occurred is in the Czech Republic or when a company is seated or registered in the Czech Republic.

f) Developments and reforms in collective redress

- **Are there any expected developments / reforms in this area?**

From a practical standpoint, no consumer organisations have yet been registered and no collective actions have been filed. It will be interesting to monitor whether collective actions will make a breakthrough in the Czech Republic.

g) Risk assessment

- **How frequently are collective actions brought each year and in what areas are they most common?**

Given that the legislation on collective redress is relatively new, no collective actions have yet been brought.

- **Based on the information provided above, is the risk to companies of facing collective actions high / medium / low?**

Medium risk.

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